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### Quad Bike Taskforce

Consumer Product Safety Branch

Australian Competition & Consumer Commission

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Website: <https://consultation.acc.gov.au/product-safety/quad-bike-safety-standard-exposure-draft/>

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## MTAA Submission to the ACCC re the Standard Exposure Draft on Quad Bike Safety

The Motor Trades Association of Australia Limited ([MTAA](#)) appreciates the opportunity to make this submission to the Australian Competition and Consumer Commission's (**ACCC's**) *Quad Bike Safety Standard Exposure Draft* (Undated 2019). This submission is largely a summary of the key points made to the ACCC by MTAA, VACC and MTA SA at our meeting of last Friday afternoon on 7 June 2019 that included: Neville Mathew (ACCC); Davin Phillips (ACCC); Richard Dudley (MTAA); Darren Nelson (MTAA); Stuart Strickland ([VACC](#)); and Nathan Groves ([MTA SA](#)).

As you may recall, **MTAA** is a federation of various state and territory motor trades associations (ie four MTAs) and automobile chambers of commerce (ie two ACCs). MTAA represents, and is the national voice of, the 69,365 automobile sector businesses which employ over 379,000 Australians and contribute around \$37.1 billion to the Australian economy equating to about 2.2% of GDP. MTAA member constituents include automotive retail, service, maintenance, repair, dismantling recycling and associated businesses that provide essential services to a growing Australian fleet of motor vehicles (MVs) fast approaching 20 million by 2020. Some of these MV businesses, in turn, involve quad bikes.

The **ACCC** states on page 5 of the *Quad Bike Safety - Final Recommendation to the Minister* (February 2019) that:

"The ACCC's assessment concludes that Option 3 is the preferred option and will most likely improve the safety characteristics of quad bikes[.]"



“Option 1 is a baseline option and does not include any regulatory changes.”

“Options 2 requires all quad bikes supplied in Australia to meet the US or EN Standard, affix a rollover warning label to the vehicle, include rollover safety information in the owner’s manual, and provide consumers with vehicle stability information at the point of sale. It also requires general-use model quad bikes to have operator protection devices integrated into the design, or fitted to the vehicles.

“Option 3 requires Option 2 and additionally stipulates minimum stability requirements general-use model quad bikes must meet before being supplied in Australia.”

**MTAA** reiterates the following points from the May 2018 and December 2017 submissions to the ACCC:

“Of the policy options proposed by Government, MTAA supports the introduction of Option 2 into Commonwealth Law and if required; supported by State Legislation.”

“[Nevertheless] MTAA [still] advocates that Side by Side Vehicles (SSVs) and quad bikes [QBs] and associated safety equipment retailers / dealers (retailers) are not responsible or accountable for the miss use of SSVs and quad bikes (e.g. operating at unsafe speeds or under the influence of alcohol) and the effectiveness of associated safety equipment to protect occupants.”

“[Nevertheless] MTAA [still] seeks assurance that retailers will not be subject to prosecution or other litigation in the event of user injury or death; either through the proper use or misuse of [QBs] and [QB] safety equipment.”

“[Nevertheless] MTAA [still] supports [the ACCC and/or Government minimising] industry disruption and transition costs as 95% of [QBs] sold in Australia are already certified to the US standard.”

“[Nevertheless] MTAA is [still very much] concerned that any substantial [QB] design changes imposed on manufacturers...could potentially result in: manufacturers exiting the Australian market and reduced consumer demand due to the increased cost of purchasing a [QB] or SSV.”

“[Nevertheless] MTAA [still] advocates that any additional regulatory certification be conducted by the manufacturer and at the point of manufacture and that certified [QBs] be provided to the retailer including additional information and with included labeling requirements.”

“[Nevertheless] MTAA [still] advocates that any costs associated with the introduction of [these changes] should not be imposed on retailers but on manufacturers, Governments, consumers and/or users.”

The **ACCC** adds on page 6 of the *Final Recommendation to the Minister* that:

“Overall, Option 3 is most likely to result in significant improvements to safety outcomes for consumers and enable them to play a role in creating a safer quad bike fleet through informed purchasing decisions. Option 3 has been developed to minimise disruption to the quad bike market to ensure these vehicles remain available for consumers, many of whom rely on these vehicles for daily work tasks.”

**MTAA** reminds of the following points made by Stuart Strickland last Friday afternoon:

“Withdrawal from the market from major manufacturers will have severe financial impact on rural members business’s that are already suffering through extreme climatic conditions.”

“Franchise agreements in place will be impacted, with possible complex legal challenges.”

“Members being uneasy about being forced to fit operator protection devices (OPDs) that manufacturers claim their QBs/SSVs aren’t constructed to fit.”

“Members being uneasy about being forced to fit OPDs that have no engineering standards or documented proof that they protect a rider in an accident.”

“The 2015 [Quad Bike Performance Project](#) by UNSW’s Transport and Road Safety Research (TARS) found a negative 10% benefit for all OPDs.”

“Members concerned about being held legally responsible for any injuries or deaths attributed to retro fitted OPDs in an accident.”

“Members concerned about potential conflicts arising from warranty claims bought about from the fitment of OPDs to QBs/SSVs that manufacturers say haven’t been designed to accommodate such items.”

“Members concerned about user’s non-compliance with manufactures safety recommendations (labels affixed to QBs/SSVs and in owner’s manuals) that have resulted in accidents and deaths.”

“Members concerned that the fitment of OPDs may cause an increase in accidents and deaths with ongoing non-compliance of safety recommendations, under the assumption that an OPD will provide safety previously not available on the QB/SSV.”

“Concerns raised will be older QBs/SSVs will be retained longer by most farmers with some reluctance to switch to more costly alternative vehicles, potentially creating future issues with safety concerns as these QBs/SSVs become older. Costs related to parts and service may become an issue with potentially unsafe QBs/SSVs being used on farms.”

“Members report market demand is still healthy for QBs/SSVs as a versatile low-cost farm utility vehicle that cannot be replaced by more expensive and larger QBs/SSVs.”

The **ACCC** makes reference to **manufacturer/s** “108” times in the *Final Recommendation to the Minister* including the following key sample (in order of appearance):

“**Supplier** [=] Quad bike **manufacturers** and distributors[.]”

“Without government action, individual **manufacturers** are unlikely to redesign quad bikes to improve safety or to provide enhanced information about their safety performance.”

“The ACCC’s assessment concludes that Option 3 is the preferred option and will most likely improve the safety characteristics of quad bikes through: improving safety information available to consumers and introducing an incentive for **manufacturers** to compete on lateral stability results[.]”

“The supply chain for new quad bikes includes **manufacturers**, importers, distributors, retailers (dealers) and consumers. New quad bike sales also generate demand for aftermarket services (vehicle servicing, replacement parts and repairs), accessories (such as operator protective devices, trailers, gun boots and spray tanks) and provide vehicles for sale in the second-hand vehicle market.”

“Consumers typically purchase new quad bikes from dealers, although **manufacturers** may supply some customers directly for special purpose applications such as defence. A feature of the industry is the vertical integration of ‘**manufacturer** authorised’ supply chains, including dealerships owned by **manufacturers** and authorised dealer agreements.”

“New and second-hand quad bikes are also sold online. Some online sales are conducted directly between **suppliers** and consumers, while others occur through online marketplaces such as eBay, Bikesales or Gumtree. A 2013 survey of recreational quad bike users indicated that most of the vehicles sold online are new vehicles (73 per cent).”

**MTAA** recommends that direct reference should be made in the final version of *Consumer Goods (Quad Bikes) Safety Standard 2019* to “**manufacturer**” or equivalent (eg authorised agent or assembler *but not* retailer or distributor). Such reference should, at a minimum, be inserted into the following sections: *4 Definitions*; *8 Scope of this Part*; *14 Scope of this Part*; and *17 Application of this instrument as made*.

**MTAA** urges that a proper *quantitative* (and preferably independent) [cost benefit analysis](#) (CBA) be undertaken of this *exposure draft* prior to it being finalised for application to QB/SSV manufacturers or equivalent. Independency may require that an agency such as the [Productivity Commission](#) (PC) do the CBA with the guidance of the [Office of Best Practice Regulation](#) (OBPR) and input from the ACCC, MTAA and other impacted and/or interested stakeholders. MTAA, thus, believes that more time should be devoted to undertaking not just a *qualitative* but a *quantitative* CBA, not only *despite of* but *because of*, the following observations from page 5 of the *Final Recommendation to the Minister*:

“Suppliers have been vocally resistant to regulation that may require quad bike redesign and, with few exceptions, have not assisted the ACCC in reconciling the costs that may be realised from regulation. This has resulted in uncertainty about the monetary costs and the extent of benefits that may be realised from adopting the above options. There is also uncertainty around the innovative or technological responses that may arise from performance-based regulation to improve quad bike safety. The uncertainty associated with the costs and benefits limited the extent to which a reliable *quantitative* assessment of the above options could be developed. Instead, the ACCC has conducted a *qualitative* assessment[.]”

Please accept this **MTAA** submission to the **ACCC’s** Taskforce on the important issue of *Quad Bike Safety*. MTAA looks forward to being fully engaged for any further *Standard Exposure Draft* related consultation. Questions or comments regarding this submission may, at first instance, be directed to Mr Darren Nelson on 0479 001 040 or [Darren.Nelson@mtaa.com.au](mailto:Darren.Nelson@mtaa.com.au). Darren is MTAA’s Director of Policy and Industry Relations.

**MTAA Ltd**  
**11 June 2019**

**End of Submission**

