

Submission to the ACCC on the - Quad bike safety standard exposure draft.

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Quote from Yamaha's Managing Director, Takashi Kaieda, to the ACCC 8th May 2018

Our top priority as a manufacture is to provide a reasonably safe and reliable product for users who use common sense and good judgment in conjunction with the product instructions and warnings.

So, the question is; - Is this a reasonable policy safety strategy for a product know to kill users?

I have the following comments on the "Quad bike safety exposure draft" or Draft

1. I support and agree with the Draft
2. In previous submissions I advocated additional measures however I accept the ACCC findings.
3. In addition, even though it is not part of the Draft, I support the flagged simplification to the star rating system described as "alternate safety star rating system" (bottom of page 54 Final Recommendation to the Minister), with appropriate additional consultation.
4. The draft is a significant simplification of 5 options (containing some elements of options 2,3and 4) of the Quad Bike Safety - Consultation Regulation Impact Statement. It is significantly less onerous on quad manufacturers than it might have been if all the proposals had been accepted. This might be seen as a significant 'win' for the FCAI and those opposed to all the 5 options. The star rating system of Option 2 is excluded, and Option 4 has been dramatically simplified to a low-cost test (the "lateral roll stability" test) that is relatively easy to achieve. In the win for the manufactures I note the following-
 - A. The additional cost and complexity per machine to quad manufacturers, other than "General Use" typs, is minimal, possibly less than a coffee.
 - B. Additionally, this low cost to the manufacture is exactly the same "cup of coffee" for "General Use" quads, if the manufacturers use one of the alternative companies to supply the OPD. However, the OPD cost is passed on to the consumer, as it is now.
 - C. There is a cost for designing their own OPD. But that would reduce the cost to the consumer in the long run for "General Use" machines over a 3rd party suppling the OPD. This would create a commercial price advantage for those companies who do design and manufacture their own OPD.
 - D. Quad manufacturers supported ANSI/SVIA1 2017 and no submissions opposed the SVAI standard were submitted to the ACCC, apart from those who said it required strengthening or improvements. Almost all quads imported today meet the requirements of ANSI/SVIA1 2017, so that is nothing new or additional costs.
5. Any 'watering down' or weakening of the draft would be equivalent to Option 1- do nothing.
6. Requirements of "Part 2—Requirements for all quad bikes" of the Draft are easily met. It really should be a part of the ANSI/SVIA1 standard as a normal obligation and duty of care to the safety of their customers. ANSI/SVAI already has labelling and stability requirement's so Part 2 adds little additional costs.
7. Fitting a CPD to new quads is now an accepted practice in many parts of Australia. Retailers of the Quad, including the franchises of major quad manufacturers like Yamaha and Honda, are familiar with ordering and fitting the CPD.

The manufactures oppose the Draft and in particular the OPD component.

The ACCC is aware of the campaign “No to OPD” (including twitter, Facebook and website), various threats by some manufactures to withdraw from the market (including dealer bulletins encouraging retailers and their customers to make submissions to the ACCC). The FCAI and manufactures offer an alternative to the Draft including training/ education, and helmet use (even though the ACCC made it clear this was not in their jurisdiction).

The ACCC should dismiss their alternative strategy for two reasons

1. If there were to be any ‘watering down’ of any parts of the Draft, this would be same as doing nothing or “option 1”
2. Their alternative has proven not to work effectively in reducing fatalities in the past. This is detailed below.

While the ACCC has outlined additional safety measures that can be taken that are outside their jurisdiction, and will have safety benefits, for example riders wearing helmets, these measures alone are insufficient to reducing the horrible death toll.

Yamaha are seen only to blame the victims

“Our top priority as a manufacture is to provide a reasonably safe and reliable product for users who use common sense and good judgment in conjunction with the product instructions and warnings.” Takashi Kaieda, Managing Director, Yamaha, 8th May 2018.

Subject: YAMAHA answers for the ACCC Questions (Public version)

“behavioural standards - rather than product modifications – hold the key to ATV safety”

Yamaha Dealer bulletin 798 - 2 May 2019



Image within the Yamaha press release shower dangerous behaviour

FCAI Media release

The FCAI think alternative is “It’s as simple as that”

“The answer is to make three fundamental behavioural changes to how people work with ATVs – behaviours that are plain common sense when using tools in any workplace:

- 1. Don't let children operate the vehicle***
- 2. Wear a helmet***
- 3. Educate users.***

“It's as simple as that,” Mr Weber said.

They say the above, (with zero empathy for those who die) **But** humans are not perfect and even with training and helmets they are still being killed.

At about the same time as the press releases, the NZ coroner report was released

NZ Media

Kaye Marie Blance Blance's death was the second quad bike fatality at the Land Corp farm, at Cape Foulwind, 16km south-west of Westport.

The coroner found there may have been some misjudgment made by Blance going too close to the edge of the culvert.


She and the bike slipped from the stream bank, before the bike landed on Blance, pinning her to the southern bank of the stream.

Blance's supervisor discovered her body. He checked for a pulse and breathing but could find no signs of life.

It is disappointing that Yamaha would have an image linked to their above press release that depicts a Yamaha quad in a very dangerous situation next to a drop off! A scenario not too different to the description of the circumstances of Kaye Blance tragic death, (except Kaye Blance was wearing a helmet and the Yamaha picture isn't).

It is **NOT** “simple as that” as the FCAI suggest. And it's not isolated. Even though the number of people that have received formal training is very low, they are still dying.

Herald Sun

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 **NEWS** BREAKING NEWS FEDERAL ELECTION LOCAL **VICTORIA** EDUCATION

A PROMINENT Melbourne barrister has been killed when his quad bike flipped – the latest of three farming tragedies in as many days.

A coroner will investigate the death of William “Ross” Ray, QC, whose body was found pinned under the bike at his property at Merrijig yesterday.

Close friend and colleague David Neal, SC, said Mr Ray had taken a number of courses on ATV safety and was involved in an inquest into deaths from quad bikes.

The sudden death has rocked many in the profession who knew Mr Ray as an inspiring barrister, a generous man who had been a devoted father and husband.

The point is that their alternative isn't effective enough.

The Victorian Coroner's comment when there was only a very few quad fatalities in Australia, are still true today- Coroner John Olle Case 245/02

ROLLOVERS OCCUR WHEN RIDDEN SAFELY

Rollovers occur when ridden by safety conscious operators who are **not** being stupid. The most alarming lesson from these inquests, is that careful, safety conscious individuals lost their lives whilst performing innocuous farming tasks on familiar terrain.

In my opinion, teaching people not to die on a quad is a worthy endeavour, but about as effective as teaching people not to have a car accident, good luck with that! This has all been done before. Big promises were made by Heads of Workplace Safety Authorities (HOWSA) in fixing the problem with administrative controls.

"INDUSTRY STRATEGY FOR THE REDUCTION OF FATALITIES AND SERIOUS INCIDENTS RESULTING FROM ON-FARM USE OF QUAD BIKES" 2009

Australian WHS regulators to secure the uptake of rider training requirements in line with the following timeframes:

- within 6 months no quad bike will be sold for farm use through dealer networks without the purchaser having been formally referred to a training provider
- within 2 years only farm employees who have received training will be operating quad bikes on farms
- within 5 years all operators of quad bikes on farms would be required to be able to demonstrate that they have undertaken an accredited training course

And the people who made that HOWSA group were experienced and well intentioned

1. Accessory Manufacturers – Hardi Australia; Silvan Australia
2. Australian Workers Union
3. Dealer Network
4. Farmsafe Australia
5. Federal Chamber of Automotive Industries (FCAI)
6. Motor Traders Association of NSW
7. NSW Farmers Association
8. NSW Roads and Traffic Authority
9. Quad Bike Manufacturers and Importers – Honda Australia Motorcycle and Power Equipment; ODES; Yamaha Motor Australia; Polaris Sales Australia; Suzuki Australia; Kawasaki Motors; Kymco Australia and New Zealand
10. Training Providers – ATV Training; Stay Upright; H.A.R.T
11. Work Health and Safety (WHS) Jurisdictions – New South Wales; Queensland; Victoria; Tasmania; New Zealand; Western Australia; SafeWork Australia; Northern Territory; South Australia; Comcare

Conclusion

Requirements of the Draft are easily met, however, some opposition could be seen as argumentative and disruptive to the process of improving quad bike safety.

Links

<https://www.stuff.co.nz/business/farming/112850055/coroner-calls-for-working-party-to-improve-quad-bike-safety>

FCAI Media release <https://www.fcai.com.au/news/index/index/article/568>

Yamaha Media <https://www.yamaha-motor.com.au/discover/news-and-events/news/atv-rov/2019/may/atv-standards>