



SUBMISSION

**Quad Bike Safety
Consultation Regulation
Impact Statement**

4 May 2018

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2. About the Motor Trade Association of South Australia

The following comments are provided on behalf of the Motor Trade Association of South Australia (MTA-SA), the only employer organisation representing the interests of approximately 1,100 automotive retail, service and repair businesses and their approximately 15,000 employees.

Eighty per cent of these businesses employ less than twenty employees in South Australia. The automotive retail, service and repair sector adds more than \$2.85 billion to the State economy annually and employs almost 29,000 people in South Australia – more than the ten largest South Australian companies combined.

The MTA Group Training Scheme is a Registered Training Organisation and Group Training Organisation, which delivers post trade and apprentice training to automotive tradespeople, employing 450 apprentices and placing them in over 250 host businesses. We also train a further 200 industry apprentices.

As a representative state body, the MTA has twelve divisions representing the full range of trades in South Australia's modern automotive industry, including:

1. Australian Auto Dealers Association
2. Automotive Repairs
3. Automotive Dismantlers
4. Collision Repair
5. Commercial Vehicle Industry Association
6. Farm Machinery Dealers
7. Licensed Vehicle Dealers
8. Motorcycle Industry Association of South Australia
9. Rental Hire
10. Service Stations
11. Towing
12. Tyre Dealers

3. Submission Contact

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4. Executive Summary

As the ACCC Issues Paper on Quad Bike Safety identifies, there have been a number of injuries and deaths associated with the use of quad bikes.

The MTA has considered the data presented in the issues paper and the Consultation RIS and has undertaken extensive consultation with its dealership members in order to provide the ACCC with an appropriate response to the issues raised.

The evidence supplied does not support a definitive conclusion that Australian specific regulations mandating the fitment of Roll Over Protection Systems (ROPS) and Crush Protection Devices (CPD) would result in a material change in the number of injuries and fatalities associated with the use of ATVs.

The development of improved safety features on quad bikes is subject to substantial levels of research and development by manufacturers, within the relatively limited scope for design change available to quad bikes.

The adoption of proven and trusted international standards for quad bikes, such as the US standard, provides the most appropriate mechanism to increase safety outcomes for consumers whilst maintaining continuing supply of vehicles to the Australian market with minimal disruption.

A key focus of the US standards is the requirement to increase consumer awareness and education about the design capabilities of quad bikes, and to ensure strict adherence to the specifications of the manufacturers.

MTA-SA supports increased efforts at point of sale to further educate consumers on the correct operation of quad bikes and the critical importance of abiding by the specifications set by the manufacturers to reduce injuries and fatalities.

MTA-SA also considers that the costs associated with providing this additional information is appropriately borne by the originator of the product, the manufacturers, and government as the regulator of product safety.

Mandating Australian specific regulations, unaligned with those developed in the major manufacturing countries such as the United States, risks manufacturers choosing to withdraw product lines from the Australian market rather than undertaking cost prohibitive production lines for a mere three per cent of global sales.

Operators of quad bikes must also acknowledge their own obligations under Work, Health and Safety and Australian Consumer Law requirements to operate quad bikes as they were designed to be used.

Abrogation of this obligation will negate any benefit that may be derived from increased education or design changes.

If design changes are to occur, MTA-SA considers that these should be as a result of independently developed empirical evidence that the change proposed will result in improved safety outcomes. Current evidence is not sufficiently robust to make the definitive conclusion that the proposed design changes would result in such benefits.

Further, such data should be shared with manufacturers internationally as a means to improving quad bike safety at the point of manufacture, rather than seeking to retrofit safety features after that point.

The position put forward in this submission should be read in conjunction with and in support of that of MTAA and its affiliated state based organisations.

5. Responses to ACCC Questions

Question 1

The ACCC has proposed five options. Which is your preferred option and why do you prefer it to the others?

As noted in MTA-SA's submission to the Quad Bike Safety Issues Paper in December 2017, MTA-SA supports Option 2. This encompasses the US standard, a safety star rating system with disclosure at the point of sale, and additional warnings at the point of sale. The US standard provides comprehensive instruction on design and construction, security, and point of sale consumer information.

This option adopts a proven standard and provides minimal market disruption.

Reasons for this preference over other options:

- Option 1 – MTA-SA acknowledges the horrible deaths and injuries that have occurred and concur that taking no action at all on this matter is inappropriate.
- Option 3 – MTA-SA is concerned that there is insufficient evidence to suggest that OPDs will successfully curb neither injuries nor fatalities. MTA-SA notes the ACCC's own findings that 40% of accidents occur from operators simply falling off quad bikes. MTA-SA is also concerned that if increased design changes are imposed on manufacturers then, with the fact that Australia holds only three per cent of the quad bike market, manufacturers will simply cease exporting to Australia.
- Option 4 – As for Option 3, MTA-SA is concerned that there is insufficient evidence to suggest that engineering design changes will successfully curb neither injuries nor fatalities. It is also concerned that if increased design changes are imposed on manufacturers then, with the fact that Australia holds only three per cent of the quad bike market, manufacturers will simply cease exporting to Australia.
- Option 5 – as per arguments for Options 3 and 4.

Question 2

If you are a quad bike manufacturer, importer or retailer what impact will these options have on your business? For example, how much will it cost to implement each of the requirements, (design changes and testing), and what is the likely effect on sales and the model range?

Option 1 – nil impact

Option 2 – Approximately 95% of quad bikes in the Australian market adhere to the current US standards. As retailers, MTA-SA's members assume that any additional costs to implementation of the US standard, and subsequent testing and additional warning notices, would be borne by the manufacturer or government. Therefore, the impact on retailers would be minimal.

Option 3 – MTA-SA concurs with the cost of OPDs as noted in the RIS (approximately between \$599 and \$1364 including GST). However, if mandated, this cost would invariably be passed on to the consumer. This would impact negatively on industry as any increase in price will cause a subsequent reduction in demand. This is particularly so when the increase is for additional safety equipment for which there is no definitive evidence of its efficacy.

The likely effect on sales and the model range is substantial. With Australia only holding three per cent of the global market, MTA-SA is concerned that manufacturers will withdraw from this market leaving a large gap in important industries including farming and tourism.

Option 4 – Similarly to Option 3, MTA-SA is concerned that additional engineering specifications would increase the price of quad bikes and reduce demand. This would have a substantial effect on sales and model range.

MTA-SA notes the ACCC's findings that some models already have the suggested design requirements, and also notes the associated cost differences. The model range will decrease giving consumers less choice. Applying economic logic, if only higher priced models are available for sale overall sales will decrease. Consequently, the market for parallel imports (if prevention is not implemented) would increase. This would severely damage the retail sector.

Question 3

If you are a quad bike user what would be the impact of the proposed options?

Not applicable.

Question 4

What effect will each of the proposed options have in saving lives and reducing deaths?

Option 1 – MTA-SA assumes on the balance of probability that taking no action would achieve a similar result.

Options 2, 3, 4 and 5 – The evidence provided is not sufficient for MTA-SA to quantify the effects of the respective options. Suffice to say; with additional focus on safety, the effect would be to lower the fatality rate.

Question 5

The US Standard requires a number of general warning labels to be affixed to the quad bike. The ACCC is proposing additional labels and information in the owners' manual, alerting the operator to the risk of rollovers and differential selection. Provide comment on these two additional labels (see section 8.6).

MTA-SA supports the comments in 8.6 of the RIS.

Question 6

Provide comment on the current model of the safety star rating system (see Attachment A).

MTA-SA considers that the UNSW TARS Safety Star Rating Testing Criteria is sufficient.

Question 7

In Option 3, the ACCC has suggested some safety and operational criteria that an Operator Protection Device (OPD), designed to protect the operator in the event of a rollover, could meet. What are your views on the proposed criterion an OPD may be required to meet? Should additional criteria be imposed?

While safety must be at the forefront of these discussions, MTA-SA is concerned that the introduction of mandated OPDs will cause severe market disruption. With Australia only holding three per cent of the global market for quad bikes, there is a very real risk that, with additional design requirements only for this market, manufacturers will simply cease exporting to Australia. As such, MTA-SA cannot comment on the proposed criteria.

Question 8

Provide comment on the minimum performance criteria (see Attachment D) and the requirement for general-use model quad bikes to be able to have all wheels of the vehicle be able to rotate at different speeds, referred to in Option 4.

MTA-SA's response is similar to **Question 7**. Whilst safety must be at the forefront of these discussions, MTA-SA is concerned that the introduction of mandated quad bike design changes will cause severe market disruption. With Australia only holding three per cent of the global market for quad bikes there is a very real risk that, with additional design requirements only for this market, manufacturers will simply cease exporting to Australia. As such, MTA-SA cannot comment on the proposed criteria.

Question 9

Options 3, 4 and 5 do not propose additional design solutions for SSVs and sport and youth quad bikes. If your view is that one or more of these vehicles should be subject to additional design solutions to improve safety, do you have information and data you can provide to the ACCC in support of this view?

MTA-SA supports ACCC's proposal not to include SSV's, sport and youth quad bikes in this consultation.

Question 10

Provide comment on the transition period for the proposed options (see Section 8.8).

MTA-SA considers that the proposed transition periods as per the "EXAMPLE FOR ILLUSTRATIVE PURPOSES" are satisfactory.

Question 11

Provide any additional information or data that you think may be useful to informing the ACCC's recommendation to the minister.

MTA-SA reiterates its position that, as Australia holds only three per cent of the global market, Options 3, 4 and 5 will cause severe market disruption, possibly to the point that there would be little or no market for quad bikes in Australia. This would be of substantial detriment to major Australian industries such as farming and tourism.

Under this scenario, the potential increase of unsafe and uncertified parallel and illegally imported quad bikes would increase consumer risk.