



MOTORCYCLE RIDERS ASSOCIATION OF QUEENSLAND

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Director
Chemicals and Regulated Products
Product Safety Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Re: Review of the Consumer Product safety Standard for protective Helmets for Motor Cyclists

As a prime end user representative organisation the Motorcycle Riders Association of Queensland(MRAQ) has great interest in the requirements for supply and use of motorcycle helmets in the Australian market place.

Because helmets are the only mandatory piece of personal safety equipment for riders required in all jurisdictions, it is vitally important that there be no confusion as to what makes for an approved helmet both in sale and use. Moreover, end user engagement in the setting of this requirement should be a critical part of the process in finalising the requirements.

The current situation of having differing and conflicting requirements for sale and use plus divergent rules for use across the multiple jurisdictions is an absurd situation and is something that must be corrected with real urgency.

Although the MRAQ understands that the ACCC is only responsible for the laws affecting the sale of helmets, it is not possible to remove the nexus between sale and use and hence this review must always consider what effect it will have on use laws and ensure that the best outcome for both is achieved. Any other result will have end users being left with confusing and or conflicting laws that may not be able to be complied with.

The current situation of having sales law referencing one standard and most use laws referencing another, plus the mandatory standard no longer being certified to is something that cannot be allowed to continue or allowed to ever reoccur.

When considering the revised requirements of the Consumer Product Safety Standard all consideration must be taken to end with a final result that both satisfies the need for a product that meets the highest safety requirements but also allows for the greatest end user product choice. This complete result is not currently being fulfilled with the Australian market being limited to helmets that are exclusively certified to an Australian Standard only. Due to the size of the Australian market commercial constraints will often see manufacturers not go to the expense of recertifying an alternate standard approved helmet that would otherwise meet the Australian Standard and hence Australian end users are not able to purchase or use the widest variety of product.

The MRAQ has noted with considerable alarm the outcome of recent testing on a limited quantity of helmets that the ACCC undertook which resulted in a number failing to meet the requirements that they were claiming compliance with. Even more concerning is the fact that one on these helmets bore certification from two different third party certifiers. This result gives little confidence that the current Australian system of certification is working effectively and we further have grave concerns that if any relaxation of the governance of the system results from this review it may leave the end user not adequately protected and unable to rely on the stated certification.

It is the strong belief of the MRAQ that helmets need to have rigid and reliable standards applied and that certification processes to these standards are completely transparent and traceable. Additionally, oversight of conformity with these standards should not be solely performed by commercial bodies and that Government must fully participate in this process.

Review options

Option 1 – Revoke the mandatory standard and rely on other Consumer Law and road rules

The MRAQ holds no confidence in the various road rule jurisdictions ability to set in place a uniform set of road rules. The support for this belief is self-evident by reference to the current mismatching rules.

This option, if implemented would have the effect of further compounding the lack of common focus by removing the specific document that can set out what the prime standard is.

The MRAQ holds that it is vital that a point of common requirement be set to enable the greater possibility for its use in other legislation and that the best place for this common point to be is at the Federal level.

Abandonment of the mandatory standard would have very poor outcomes for consumers and end users.

The MRAQ cannot support the implementation of option 1.

Option 2 - Repeal the current mandatory standard and remake with other standards allowed.

Having become familiar with the requirements for certification of the main overseas standards the MRAQ cannot find any reasonable justification for helmets correctly certified to them to be excluded from the Australian marketplace for sale or use.

Although some have divergent focus on one or two points of reference all the main recognised standards do a good job of clarifying what is a safe helmet and none appear to be of a lesser performance than the Australian equivalent.

The MRAQ is therefore not convinced by any agreement that goes to excluding these helmets from the Australian marketplace.

It is with interest that we note that other countries have adopted multiple standards for sale and use without detriment to the market.

It is also our belief that a number of these other standards have better certification governance than the Australian standard and therefore are more reliable for consumer reference.

This option maintains a prime source of reference plus enables a better marketplace selection for the consumer/end user.

The implementation of this option would require careful and judicious wording which enabled easy or even automatic updating of the current standards, however, this should be able to be achieved by using wording referencing “the current version of the standard at the time of manufacture and or certification.”

This is the prime option for support by the MRAQ.

Option 3 – Repeal the current mandatory standard and remake it the current 2006 version of AS/NZS 1698.

This option is an improvement on option 1 in that it maintains a prime source of reference for helmets however if it is not written in such a manner as to easily allow for updating for any standard change it will suffer the same fate as the current mandatory standard and be out-dated when any change to the standard is made.

Additionally if the only change that is made to the wording of the mandatory standard is to change the standard number then other problems that are in place with the current wording will continue to exist and the end result will still be fatally flawed.

This option has only limited support by the MRAQ as it does not fulfil the requirements of offering the end user the maximum benefit of all possible available product and unless all wording anomalies are addressed the end result will be inadequate.

Summary

The MRAQ urges the ACCC to make the end user the main focus of this review and to ensure that the end result can guarantee that the correction of the current situation of dysfunctional multiple jurisdiction legislation will be the focus with a view to future rectification of all laws applicable to this single pieces of necessary safety equipment.

To lose this opportunity to start the correction of what can only be described as the ludicrous situation of not being able to agree to a common set of laws applicable to a single item for use across the whole of the country would be a travesty and would further lose the confidence of the public in the ability of governments at all levels to correctly consider the end user in this process.

The MRAQ urges the implementation of option 2.

Yours sincerely



Chris Mearns
President

*The Motorcycle Rider's Association of Queensland is the representative body for
Motorcycle & Scooter riders in Queensland*

MRAQ
UNITING RIDERS

