

FINAL REPORT
On
GEARING UP

A
SEMINAR ON
MOTORCYCLE PROTECTIVE
CLOTHING
AND
CONSUMER PROTECTION IN
AUSTRALIA

4th May, 2005

prepared
For the
Motorcycle Council of NSW

by

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MCC SEMINAR ON MOTORCYCLE PROTECTIVE CLOTHING AND CONSUMER PROTECTION IN AUSTRALIA

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INTRODUCTION

The Motor Accidents Authority funded the Motorcycle Council of NSW (MCC) to coordinate a seminar on motorcycle protective clothing and consumer protection in Australia under the 2004/05 Road Safety Grants Program.

The seminar, named **Gearing Up: A seminar on Motorcycle Protective Clothing** was designed for the motorcycle protective clothing industry and complemented an earlier MAA funded project for the MCC to produce a web based consumer's guide to promote the use of protective clothing by motorcycle riders.

Background

The research undertaken for the consumer's guide confirmed that there are significant injury reduction benefits in the use of motorcycle protective clothing. However the research also revealed a lack of performance standards and quality control with serious implications for the protective value of many of the products currently available.

Standards for motorcycle protective clothing had recently come into force in Europe where, by law, any clothing claiming to provide protection from injury must be tested and labeled as complying with the relevant standard. As there are no equivalent Australian standards, motorcycle protective clothing could still be sold here without any requirement, nor the means, to justify claims of providing protection from injury.

Consultations with key local manufacturers and distributors revealed a general lack of awareness of the existence of the European standards and the implications for the Australian industry. As a result of those consultations, a number of manufacturers had subsequently approached the MCC for advice.

Objectives

The primary objectives were to:

- A. Raise awareness of the features of effective motorcycle protective clothing.
- B. Explore the options and gain broad support for establishing a process for ensuring motorcycle protective clothing sold in Australia is demonstrably fit for purpose.

The short term objectives were to:

1. Inform the industry and other stakeholders of the MAA funded research findings on motorcycle protective clothing.
2. Alert industry to the requirements of the EU standards for motorcycle protective clothing and the implications for the Australian market of the EU standards.
3. Engage industry support for the development of a means of achieving consumer protection in Australia for motorcycle protective clothing by way of a code of practice, standards or other means.

Participants

Invited participants included:

- A. A comprehensive list of manufacturers, importers, distributors and major retailers of motorcycle protective clothing and all key motorcycle manufacturers.
- B. Industry representatives (Motor Traders Association (MTA), Federal Chamber of Automotive Industries (FCAI)).
- C. Standards Australia, Australian Consumers Association, NSW Department of Fair Trading, Australian Competition and Consumer Commission).
- D. RTA Crashlab and other product and materials test facilities.
- E. Key professional rider stakeholders (Australia Post, Ambulance, Police, Couriers, Rider trainers)
- F. Motorcycle media.
- G. Rider community representatives (Motorcycle Council of NSW).
- H. Other road safety stakeholders (RTA, MAA, NRMA).

The Seminar Program

The morning sessions of the seminar program were designed to ensure all participants were well informed about the process, options and benefits to riders and industry of adopting agreed standards of performance for protective clothing. The speakers and their topics were as follows:

1. **Guy Stanford, Chairman of the Motorcycle Council of NSW** described the background to the project and the MCC objectives in holding the seminar. He argued for the establishment of a means of verifying the protective value of motorcycle gear as being essential if riders were to be encouraged to use it. He argued that current advertising claims were impossible to verify and this leaves riders confused as to what is truly protective.
2. **Liz de Rome, Research Consultant, LdeR Consulting** presented two separate papers. In the first she summarized the literature on the injury risk patterns in motorcycle crashes and presented data that confirmed the benefits of effective protective clothing in reducing up to half of all motorcyclist injuries. In the second presentation she outlined the requirements of the European standards for motorcycle gloves, footwear, jackets, pants and impact protectors which are based on a series of tests of abrasion, impact, burst, cut and tear resistance and set a benchmark for the protective performance of each type of gear. Liz reported on a number of published consumer reports which have revealed that much of the motorcycle gear currently produced for the European market fails these tests when undertaken by independent consumer groups. She noted that as these standards are not applied in the Australian market, local motorcyclists have no way of knowing whether locally available products will perform any better in providing protection from injury in a crash. Liz also provided data on Australian rider's usage of protective clothing.

3. Ray Giblett, Senior Associate, Clayton Utz, explained the concept of negligence and the provisions of the Trade Practices Act (TPA) in terms of the duties and liabilities of manufacturers, importers and retailers. He advised that riders may have a right to compensation in cases of crashes where injuries are related to the failure of motorcycle protective clothing. Although there are no standards for motorcycle protective clothing in Australia, he noted that the Australian Courts would recognise the European standards as a guideline of relevance in such cases.

4. John Wunsch, Director, Product Safety Policy, Australian Competition and Consumer Commission described the product safety system in Australia. He described the range of regulatory and voluntary options that might be applied to improve certainty for riders and industry. While, under the TPA, the Minister may mandate a performance standard or the provision of specific types of information to consumers at the point of sale, imposed regulation has to be clearly justified and is generally difficult to achieve due to the process required. John recommended a market based solution through voluntary adoption of available standards, possibly in conjunction with a voluntary code of practice as the preferred approach in the best interests of riders and industry.

5. John Linnios, Group Manager, Environment and Consumer Standards, Standards Australia explained the range of options and processes involved for adopting or adapting the EU standards as Australian Standards. He said the benefits of standards include promoting confidence in products and services, facilitating international trade and promoting safety, quality and reliability. The process for the development of an Australian standard is initiated by a request to Standards Australia by any group or individual. Standards Australia will review the viability of the proposal and on approval will establish a technical committee, if a relevant committee does not exist, from representatives of relevant interest groups who will formulate the standard, which may be partially or wholly based on an existing standard from another country. When the draft is at a sufficiently advanced stage, it is released for public review and comment, which may result in enhancements being incorporated. The final stage of a project is committee approval of the draft, by ballot, which must result in a minimum 80% support and no single interest group maintaining a collective negative vote.

6. Norm Crothers, Deputy Chief Executive Officer, Australian Consumers' Association provided an over view of the pros and cons of the different options from the consumer's point of view. He noted that the failure of motorcycle protective clothing is not an isolated example of products being unfit for purpose. He noted that consumer product related injuries relate to 70% of unintentional injuries receiving medical attention each year. Norm described the current product safety regime in Australia as reactive and ineffectively enforced, due to the variety of regulations and agencies at Federal and State level. He endorsed a proposal currently being considered by the Federal government to introduce a single national system based on a general safety provision in line with the UK, Canada and USA. A general safety provision would place the onus on producers to ensure the safety of their products, rather than relying on government regulations on a product by product basis. It would also be consistent with any industry adopted voluntary standard or code of practice for motorcycle protective clothing.

7. Paul Varnserry, Technical Director PVA Technical File Services Limited was the key note speaker. He provided a detailed explanation of the research background and the technical specifications that form the basis of the EU standards for motorcycle protective clothing. He allayed participants concerns about the process and costs involved in manufacturing motorcycle protective clothing that complies with the EU Standards. Paul provided indicative costs for testing individual models of clothing against the EU Standard. Leather or textile jackets and pants cost approximately \$2900 (Aus), gloves (\$5,000) and boots (\$6,000). He noted that boots are the most expensive due to the comprehensive panel of tests involved but that this has not prevented key brands such as BMW, Hein Gericke and Oxtar from quickly launching accredited boots, and at prices which do not appear to be much different from the previous versions of the same models. He also commented that it was the smaller British companies that were the first to produce CE marked motorcycle clothing in Europe.

He concluded by summarizing the benefits of working to a standard:

- ❖ An independent mark of fitness for purpose
- ❖ Single technical benchmark for manufacturers
- ❖ Improved consumer choice
- ❖ Safeguard against litigation (3rd party certification)
- ❖ Prospect of insurance discount incentives (product liability)
- ❖ Motivational force for further development
- ❖ Positive press test reports will assist sales

Participant discussion and deliberations

The afternoon session involved participants working in small groups to determine a preferred system for ensuring that motorcycle protective clothing in Australia is fit for purpose. The seminar concluded with a consensus to establish a system based on the EU standards and with the nomination of a working party to undertake further action.

EVALUATION

Short term indicators for the evaluation of the project were determined as a part of the project development plan. The short term indicators were:

1. The proportion of invited key industry stakeholders who attend the seminar.

The immediate outcomes of the seminar in terms of the:

2. Identification of a preferred system for consumer protection.
3. Development of a plan for implementation.
4. Establishment of an ongoing forum of key stakeholders to drive the development and implementation of the plan and code of practice.

OUTCOMES

1. Participation

A total of 88 invitations were distributed, 58 were accepted and a total of 52 people attended the event including all key industry stakeholders.

Stakeholder sector	Invited	Attended
Manufacturers, importers, distributors and major retailers of motorcycle protective clothing.	43	19
Industry representatives (Motor Traders Association, Federal Chamber of Automotive Industries)	2	1
Product safety agencies (Standards Australia, Australian Consumers Association, NSW Department of Fair Trading, Australian Competition and Consumer Commission).	4	4
Product and materials test facilities.	5	2
Key professional rider stakeholders (Australia Post, Ambulance, Police, Couriers Rider trainers etc)	16	10
Motorcycle media.	5	4
Rider community representatives (Motorcycle Council of NSW).	5	5
Other road safety stakeholders (RTA, MAA, NRMA).	5	4
Other speakers	3	3
	88	52

2. Development of a preferred system for consumer protection.

2.1. There was a general consensus of agreement:

- 2.1.1. To develop an industry regulated system for ensuring motorcycle protective clothing sold in Australia is fit for purpose.
- 2.1.2. To use the EU standards for motorcycle protective clothing as the basis of a voluntary standard.
- 2.1.3. To devise an industry code of practice for the application of the standard.
- 2.1.4. To develop an ongoing independent process for the verification of product performance standards.
- 2.1.5. To create a new class of products in the market place that are verified as meeting performance standards based on the EU standards.

2.2. Regulation and enforcement

- 2.2.1. There was a general preference for a system that is not dependent on government action and would be driven by market forces.
- 2.2.2. There was general opposition to any form of mandatory standard or the compulsory use of protective clothing by riders.
- 2.2.3. A number of participants raised concern as to the adequacy of existing standards and lack of enforcement by government regulators at state and federal levels. In particular, concern was raised as to the apparent inability of the Federal government to prevent the importation of motorcycle helmets which do not comply with the Australian Standard.

2.3. Adoption or adaption

- 2.3.1. Companies whose business focused on importing products already developed for the European market were keen to ensure that the European standards be simply adopted by Australia without additional testing or labeling requirements. This approach was also favoured by those local manufacturers with an interest in export to Europe.
- 2.3.2. Consumer groups and those with a focus on the local market were more in favour of establishing Australian standards, which would be based on the European standards.
- 2.3.3. A third group amongst the participants were those who import products from non-European sources such as the USA. Their concerns centred on the logistical difficulties of having those products tested and labeled for the relatively small Australian market.

Note: The disparate needs of these three groups may be effectively accommodated by an Australian based testing and labeling system which accepts the CE mark of the European standards as equivalent.

2.4. Scope

- 2.4.1. It was generally agreed that the system should be nationally developed rather than state based.
- 2.4.2. A question was raised as to whether the European Standards, having been developed for road-riding conditions, could adequately represent the needs of off-road riders. The response of Paul Varnsverry was that the standards and all the tests remain relevant although impact, impact cut, tensile strength and burst strength probably sit higher in the hierarchy than abrasion resistance.
- 2.4.3. There was also some concern as to whether the European Standards could adequately meet the needs of Australian climatic conditions. It was pointed out that no motorcycle clothing, without electronic climate controls, could be expected to cope with the extremes of any climate. It was also noted that most riding is not undertaken under extreme conditions and average summer temperatures in Australia are actually similar to much of southern Europe. However it was agreed that gear appropriate for very hot weather was generally unavailable, resulting in low wearing rates. It is hoped that the demand for high level protection in hot weather will apply pressure to develop suitable riding apparel

2.5. Community education

- 2.5.1. Industry representatives commented that they would need some assurance that consumers will be prepared to pay for higher quality products, in order for industry to undertake the increased costs that may be involved in manufacturing to a higher standard.
- 2.5.2. Consumer education with funding support by road authorities was perceived as essential to this process. That the main issue was to encourage wearing of “useful” protective gear with at least some effectiveness and that to concurrently promote verifiable protective gear would enhance wearing rates.
- 2.5.3. Additional incentives for consumers to use certified products were discussed including rebates on personal injury and private health insurance premiums for expenditure on protective clothing. Such proposals would require further investigation.

3. Development of a plan for implementation.

A working party of industry and rider community representatives was nominated to undertake the establishment of a motorcycle clothing industry association to establish the system and supporting processes. The FCAI have undertaken to provide administrative support for the working party. The working party is to meet within 6 weeks of the seminar.

The members of the working party are:

Industry sector	Representative
Industry Association	Ray Newland, Manager, Motorcycle Affairs, FCAI
Riders	Guy Stanford, Chairman, Motorcycle Council of NSW
Retailers	Greg Byrnes, Manager, Motorcycle Accessories Warehouse
Importers/ agents	Chris Mooney, NSW State Manager, Monza Imports
Off shore manufacturers	Rob Casson, Managing Director, Cassons
Local manufacturers	Grant McIntosh, Managing Director, Draggin Jeans

4. Establishment of an ongoing forum of key stakeholders to drive the development and implementation of the plan and code of practice

Other stakeholders including all participants at the seminar and including the professional rider employers, rider trainers, test facilities and the motorcycle media will be kept informed and consulted as a reference group.

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