RURAL AND REGIONAL SERVICES AND DEVELOPMENT COMMITTEE

Inquiry into cause of fatality and injury on Victorian farms

Melbourne – 12 July 2004

Members
Mr M. P. Crutchfield  Mr R. G. Mitchell
Mr B. P. Hardman  Dr D. V. Napthine
Mr C. Ingram  Mr P. L. Walsh
Mr J. M. McQuilten

Chair: Mr B. P. Hardman
Deputy Chair: Mr C. Ingram

Staff
Executive Officer: Ms K. Murray
Research Officer: Dr V. Koops

Witnesses
Mr D. Baines, executive manager, business operations division, Kawasaki (sworn).
The CHAIR — Welcome, everybody. Thank you for your attendance. I apologise for the delay. We were not able to start without an upper house member, and they were both stuck in a lift.

Under the powers conferred on this committee by the Constitution Act and the Parliamentary Committees Act this committee is empowered to take all evidence at these hearings on oath or affirmation. I wish to advise all present at these hearings that all evidence taken by this committee is, under the provisions of the Constitution Act, granted immunity from judicial review. I also wish to advise witnesses that any comments made by witnesses outside the committee’s hearing are not protected by parliamentary privilege.

We are an all-party parliamentary committee including an Independent, hearing evidence today on the inquiry into the cause of fatality and injury on Victorian farms.

Could you please give your full name and address — company address will be fine — and the capacity in which you are representing your organisation?

Mr BAINES — My name is David Baines. My address is Unit Q, 10-16 South Street, Rydalmere, New South Wales, 2116. I am here on behalf of the five all-terrain vehicle (ATV) manufacturers represented by the Federal Chamber of Automotive Industries (FCAI).

The CHAIR — Thank you. If you could give us your presentation, we will have some questions following that.

Mr BAINES — Before beginning with the industry presentation this afternoon I would like to take this opportunity, on behalf of the member companies, to thank the committee and the secretariat for providing us both with the extra hearing session and the extension of time needed to bring together this submission as a cohesive industry presentation.

Overheads shown.

Mr BAINES — As the committee knows, the industry decided at the outset that the inquiry represented a significant opportunity to take a major step forward in ATV safety. From the outset we were very keen to develop a suite of comprehensive and proactive recommendations but wanted to take into account all the evidence brought in submissions about ATV use on farms before settling on any particular position. We are grateful for the patience the committee has shown and appreciate your understanding — it has taken us a lot longer than we anticipated. We believe we have strong but practical initiatives, and we are looking forward to making the case and talking through with you ways to advance these initiatives in Victoria.

It is my pleasure to be here today to present the position of the Federal Chamber of Automotive Industries on behalf of its members. The chamber represents members who account for some 90 per cent of new all-terrain vehicle sales in Australia each year; it therefore represents the vast bulk of the industry in this country. I will be covering important aspects of the industry’s response to this inquiry’s terms of reference. I will begin by outlining our position in a short compass. I will then move on to discuss how ATVs have become an integral part of farming in this country. I will address some design aspects of the vehicles and outline the safety initiatives the industry has taken to date. Then I will be looking at the behavioural aspects of ATV incidents, and will conclude by setting out in some detail the industry’s proposal to improve safety and to reduce the incidence of accidents.

The ATV is a mobile, manoeuvrable and economical vehicle ideally suited to farm work. As WorkSafe Victoria observed in its 2003 farm hazard brochure:

The speed, strength and manoeuvrability of the four-wheeled all-terrain vehicle (ATV) have rapidly made it a valuable transport and work machine on many farms.

The ATV’s popularity as a farm, work and recreational vehicle has made its use more widespread. Unfortunately injuries and some deaths have occurred. As an industry we are naturally concerned about any accidents involving our vehicles. We extend our sympathies to the families of those who have been fatally injured while using them. However, the true incidence of injury associated with ATVs is very low. Based on the research by Mr Kevin Breen, principal director of Marine and Automotive Research Engineering Systems Inc., some 99.6 per cent of ATVs in Australia are used each year without any injury to the user. Fatal injuries represent just 100th of 1 per cent of ATVs users. The principal cause of ATV-related injuries is user related, accounting for 80 per cent of incidents. Based on
a study by the US Consumer Product Safety Commission the remainder are related to external factors such as the environment and mechanical failures — for example, tyre blow-outs.

The suggestion has been made that ATVs should be redesigned to incorporate roll-over protection, or ROPS as it is commonly known. For a number of reasons this is neither practical, nor has it proven to be likely to reduce the already low incidence of ATV-related injuries. Indeed, research indicates that in many cases it may actually increase the chance of an injury occurring and the severity of the injury if one does occur.

Audio presentation as follows:

The second system, proposed more recently in the US by F. H. Johnson has a more extensive and stronger structure which makes the vehicle more top heavy and subject to tipping. It has a harness and wrist restraints — no leg restraints. It also has a seatback but with no other energy-absorbing devices it too fails to meet the essential ROPS requirements. When tested, this system demonstrated a tendency for an ATV with ROPS to continue rolling once roll-over begins and with the rider belted inside an increased chance of head, neck and other injuries. After reviewing the results of these tests, in 1992 the US Consumer Product Safety Commission rejected the use of ROPS on ATVs.

Mr BAINES — As a result the industry’s united view is that legislation is needed to enforce the safer use of ATVs. In particular the legislation is needed in six key areas — the compulsory wearing of helmets, a ban on those under 16 riding adult-sized ATVs, a ban on carrying passengers on single-operator ATVs, introducing a ‘userworthy’ certificate, and introducing amendments to relevant occupational health and safety legislation. Further, we suggest that legislation be marked to be introduced to ensure that all ATVs sold in Australia comply with the ANSI 2001 standard. We are looking to the Victorian legislature to promote the rolling-out of these solutions nationally.

As I mentioned, ATVs are a mobile, manoeuvrable and economical form of transport. In addition to these attributes, ATVs are able to carry cargo and to tow trailers. More importantly, in the context of rural industries they allow the user to gain access to sloping, rugged or waterlogged terrain. They can access areas where there is limited side or height clearance, such as timber land, and they can negotiate rocky or even snowy land, streams and unscaled roads. They allow the operator to accomplish many tasks with comparative simplicity due to the easy access to land from the vehicle.

According to the Monash University Accident Research Centre’s March 2003 report on ATV injuries, there are an established 175 000 units currently in use in Australia. The Australian Bureau of Statistics Year Book for Australia for 2004 reported an estimated 135 377 establishments undertaking agricultural activity as at 30 June 2002. While not all ATVs are used in a farming context, those statistics illustrate the relative importance of the ATV to this country’s rural industry.

The ATV is designed to provide an effective and safe form of off-road transport for both work and recreational purposes. The design of the ATV has been refined over the years to ensure that its dimensions are properly sized to accommodate a single operator in a typical off-road setting. Its tyre configuration performs with stability on a range of off-road surfaces. Its suspension and weight-transfer characteristics allow the vehicle to easily accommodate various terrains, and it incorporates appropriate control, power and braking features.

One vital aspect of the ATV design is that it is what we call rider active. In simple terms, that means the rider is actively involved in the way the vehicle operates in various terrains — for example, the rider can transfer weight to dynamically adjust the suspension and weight distribution of the vehicle. The rider can also coast — that is, stand on the footrest while traversing rugged ground in order to reduce the effects of obstacles encountered. This rider-active system enhances manoeuvrability and extends the stability limits of the vehicle in operation. These design imperatives need to be kept in mind when reviewing any ROPS proposal for ATVs. Since the issue of ROPS is an important one, I would like to address it first.

Various alternative design concepts for ATVs were investigated in the US between 1985 and 1995, and later in the UK. These concepts included pitch or wheelee bars and roll cage-type structures. The roll cage concept required significant modifications to the structure of the ATV to include a rigid seat back, full roll cage, rear and side pitch bars and occupant restraints. These modifications resulted in a vehicle no longer being rider active, and they increased the vehicle weight. In turn this meant that the ATV’s mobility in many off-road environments was reduced.
The UK health executive, the CPSC, and other technical organisations in the US such as the Specialty Vehicle Institute of America, the Society of Automotive Engineers and the American Society of Mechanical Engineers have all rejected these design concepts.

Currently, none of these concepts has been adapted to commercially available ATVs. In addition, the US ANSI 2001 safety standard for four-wheel, all-terrain vehicles does not require, nor importantly, recommend such concepts. The advocates of roll-over protection systems for ATVs contend that it is a practical design to an ATV that will protect a rider against injury in a roll over and in any conclusion modes. It is claimed that the provision of a light-weight but high-strength structure provides the occupant with a survival space when used together with a high-backed seat and seatbelt system which will effectively restrain the occupant within that survival space.

The real problem with ROPS is that the impact it has on the essential design features of the ATVs has not been properly thought out by its proponents. First and crucially, any form of ROPS fitted to an ATV will elevate the centre of gravity, making it inherently less stable. This could result in more, not less, roll-overs than already occur and make riding what is now a comparatively safe vehicle more dangerous.

Secondly, fitting ROPS to an ATV or even an alternative design vehicle such as the now-defunct Honda Pilot or Odyssey effectively ignores its intended use and will grossly restrict its utility. ROPS would reduce the ground, side and overhead clearance of the vehicle, reduce its ability to access terrain, limit the cargo it could carry, restrict the operator’s hand reach and visibility, and significantly hamper the tasks that involve regular mounting and dismounting the ATV. To illustrate this point I would like to take you to some excerpts from a video prepared by Mr John Zelmer from Dynamic Research Inc., in conjunction with his report prepared for the Victorian State Coroner.

**Video shown**

**Mr BAINES** — The first component of the footage demonstrates the difference between an ATV that has been fitted ROPS according to the new ARC and a base-line or standard ATV and the now-defunct Honda Pilot and dune buggy. As you will see this footage shows operators dismounting and remounting the ATV to illustrate the difference in time and effect for each vehicle.

This first vehicle takes 38 seconds to remove the harness, taking into account the shoulder bolsters, and to exit from the vehicle. The operator of the Pilot takes approximately 35 seconds to mount and remount, after having to remove the harness, leg and arm restraints, and to exit from the vehicle.

The operator of the standard ATV takes approximately 10 seconds to dismount and remount the ATV. The industry considers that such footage is useful in demonstrating the time and physical exertion involved each and every time a farmer is required to get off the vehicle — for example, to open a gate or to check irrigation. Farmers would be very unlikely to wear a seatbelt if it took this amount of time.

The second component of the footage depicts the same vehicles traversing over sinusoidal bumps. Sinusoidal bumps were used as they are very common off-road terrain in areas travelled by vehicles.

On this type of bump, typical motorcycle and ATV riders are able to absorb the bumps with their legs in order to improve comfort and stability. As you can see, the operator of the ATV with ROPS fitted is being subjected to significant pitching and the vehicle is frequently becoming airborne. The operator is bearing the impact through the ROPS. You will notice that his arms are rigid and there is substantial head movement.

The rider on the standard ATV, however, is able to use the rider-active techniques to quickly and easily traverse the terrain without the pitching or harsh impact on the body. Here the rider goes up the incline with the energy being absorbed and distributed through his legs making it more comfortable than the rigid structure of the ROPS which prevents the operator from moving around. The pilot also experiences minimal difficulty in traversing the terrain, bearing in mind that it was designed primarily for recreational use on sand and other similar terrains.

These next two examples show an ATV and an ATV fitted with ROPS travelling a rocky trail. As you can see, the rider on the ATV without ROPS is able to negotiate the rough terrain by using the rider-active method thus minimising the impact on the body. The rider on the ATV with ROPS is being jolted around quite significantly. Riding under these conditions for any length of time would result in neck and shoulder soreness. The ROPS together with the essential restraint of a seatbelt for the rider immediately preclude the rider-active aspect of ATV
operation, which, as I mentioned, is one of the key featured designs. This reduces the vehicle’s safety, utility and capacity to access difficult terrain. The seatbelt also precludes the rider from being able to post in order to facilitate manoeuvres such as increasing individual wheel traction in slippery conditions and to provide enhanced visibility over terrain and obstacles. This is of particular importance in relation to the herding of stock in big bush.

The seatbelt also removes the opportunity of a rider of an ATV to separate from the vehicle should it be involved in a rollover. This is more effective and less dangerous for a rider involved in being strapped into a small light-weight vehicle.

Further, the industry is concerned that farmers will not wear the seatbelt. Failure to wear a seatbelt on an ATV fitted with ROPS will increase injury rates significantly. Also in order to absorb energy when involved in a collision or a rollover, the ROP structure must deform. In doing so it may intrude into the rider’s survival space that in a small vehicle is already extremely limited. This again exposes the rider to an increased risk of injury or death.

No method has been identified to restrain an ATV rider to or within the ATV. It is not likely to increase the risk of injury and reduce the utility and mobility of the vehicle. In short ROPS are simply not practical and in many cases are more dangerous. In the light of the current emphasis on this issue it is possible to lose sight of the real nature of the risk posed by farmers by the use of ATVs. In reality the risk is very low. As I mentioned at the outset, more than 99.6 per cent of Australian ATVs are used each year without being involved in an injury related incident. Less than a 100th of 1 per cent of ATV riders are involved in a fatal accident. A report by Heiden and Associates in December 2003 found that, when measured on fatalities per million days of participation in the USA, ATV riding is comparable to the fatality risk associated with swimming and bicycling. The report also confirmed that the trend of more than 99 per cent of riders operating an ATV without an accident has been nominally consistent over the last five years.

I would like to take you now to some graphs which have been extracted from a submission to illustrate these findings. What we are shown here is the fatality rate per 100 000 vehicles or 100 000 horses. It shows the fatality rate for ATVs, motor vehicles and horses; ATVs being the littlest of the three in comparison. The data from this is being sourced from the Monash report and also a report by the AIHW on the position of horse-related injuries in 2000.

The FCAI members of the ATV industry take safety very seriously. To illustrate that commitment it has voluntarily introduced a number of safety measures into the Australian market. The first of these is that all ATVs sold in Australia by the FCAI members here today conform to the US ANSI standard for four-wheeled, all-terrain vehicles. The standard includes specific approved requirements for pitch stability, handling, breaking, suspension and limited speed capabilities for all youth ATVs. All ATVs sold by the FCAI members in Australia are fitted with on-product warning decals which provide information and directions to the user of the ATV about its use. The decals include a warning that helmets must be worn when riding the ATV. Adult-sized ATVs warn against persons under the age of 16 operating these ATVs. The decals prohibit and warn against riding a single-operator ATV with a passenger. They state specifically that the ATV should not be used on paid public roads and carry a clear warning against riding while under the influence of alcohol or drugs. The decals also identify the load carrying and towing capabilities and capacities of the ATV and state that these should not be exceeded. From a maintenance perspective the decals advise of the appropriate tyre pressure and the consequences should inappropriate tyre pressure be used.

Other warnings highlight the need to read the operators manual, to follow all warning instructions contained within the manual and not to ride the ATV without proper training and instruction. In addition to on-product warning decals, the current design of most ATVs includes speed-limited reverse gear, which avoids the need for dismounting and manual manoeuvring of the ATV while also avoiding the risk of acceleration while reversing, and full-floor board replacing exposed foot pegs.

The design also incorporates a thumb-operated throttle mechanism providing greater control of throttle perpetuation and a protective fender and over fenders to protect the rider from injury by debris. Comprehensive operator manuals are supplied with all ATVs providing extensive information to the owner and the rider that reinforce the safety messages contained on the on-product warning decals. In addition to the operator manual, a service and warranty manual is also provided with the ATV specifying when appropriate services ought to be conducted on the ATV and the need for services to be carried out by appropriately qualified technicians. In addition to the manuals, ATV franchisees and authorised dealers are required by the respective distributors to provide each purchaser with an ATV safety video which the purchaser can take with them or watch on the premises. Receipt of
the Australian distributors of ATVs in 1997. It was updated in 2002. Perhaps we could pause now and view You and Your ATV.

The videos provide instructions on topics including ATV rider safety, basic safe operating skills, basic riding skills and advanced riding skills. The safety video also highlights the safety warning in the decals and the manuals including the need to wear a helmet while riding the ATV, appropriate riding techniques to be adopted while operating an ATV and about the care required when riding the ATV over a slope or rugged terrain.

Safety videos have been in use since 1997 and are provided to all purchasers of their new ATVs at point of sale and are widely available free of charge to all ATV users. There is a mandatory requirement that authorised ATV dealers must provide purchasers of ATVs with operator and service manuals, a safety video, a service and warranty booklet, and purchasers are required to confirm that they have received that material.

All marketing material used by the authorised ATV dealers promotes safe riding practices, in particular any depiction of the use of an ATV complies with the safe riding practices recommended by the industry. This marketing material is widely distributed from or at each authorised dealership and by each authorised dealer at agricultural and machinery field days and promotional events. Many of the examples have been annexed to the submissions which you have already received. All media advertising for ATV complies with the manufacturers’ safety recommendations. In addition, the industry has recently developed a series of advertisements to be aired as public service announcements promoting the safe use of ATVs. I would like to show you one of these advertisements now.

Video shown.

Mr BAINES — The industry is working with government and community to extend their rider training initiatives. These initiatives include the safety video we saw earlier but also include several important rider training initiatives — for example, Honda, through its non-profit division, Honda Australia Rider Training, more commonly known as HART, has developed and provides an ATV safety training course which is now nationally accredited through the Victorian Office of Training and Tertiary Education. To date about 350 people have undertaken this course, most being government or business employees.

This course is open to all ATV operators irrespective of the brand of the ATV they own.

Yamaha has created its own ATV safety institute to provide rider education to ATV purchasers. The Yahama Safety Institute offers an endorsed training package to all ATV riders, as well as rider safety education and demonstrations at agricultural shows held throughout Australia.

Stephen Galls is the compliance officer and training coordinator on behalf of Yamaha Motors which is a training fund-registered training organisation. In addition, training is provided by Stay Upright and other commercial-public entities. Since December 2002 the industry has implemented a media protocol by which member companies notify the FCAI of any publicised incidents or improper use that come to their attention. The FCAI then coordinates a response on behalf of the industry as a whole. This protocol has resulted in a number of communications to the media including programs such as Get Away, The Great Outdoors, Foxtel’s Fish ’n’ 4 Wheels to draw ATV safety to their producers’ attention.

We have some examples of print media up there, and I think you will appreciate how difficult it is when we have the Department of Agriculture advertising in the national Farmers Federation annual and there is an ATV rider in the advertisement without a helmet. Throughout this myriad of ways the industry has sought to bring the critical issues of ATV safety to users’ attention.

Unfortunately the industry cannot control how individual users operate their ATVs. This is the critical factor in the vast majority of ATV incidents. Operator behaviour is the significant factor in more than 80 per cent of accidents. This is demonstrated in a study conducted in 1989 by the CPSC in America. Research undertaken by Heiden in the US in 2003 reveals that 92 per cent of ATV-related fatalities involved failure to follow at least one of the manufacturer’s warnings. Failure to follow two or more of the warnings was reported in 59 per cent of the fatalities reviewed. The range of that behaviour is naturally as varied as human experience would dictate. Some key factors were: riders not wearing safety gear, particularly helmets; poor or faulty maintenance of ATVs; operating the vehicle while under the influence of alcohol or drugs; inappropriate operation including carrying passengers or
allowing children to ride adult-sized ATVs; riders who were not adequately trained, or not trained at all; and overloading of the vehicle. The prevalence of inappropriate behaviour has been highlighted in the continuing coronial inquiries being conducted by the Victorian State Coroner.

Overhead shown.

Mr BAINES — We have produced a matrix that reveals the behaviour in the instance being investigated by the coroner. It was contrary to the manufacturer’s recommendations. As you can see, under the category of helmet, not one of the deceased was wearing a helmet. As you can see, three of the eight cases were children under 16 who should not have been on an adult ATV and were not wearing any helmet at all. This is consistent with 2003 Heiden research that found that the warning most commonly ignored was to wear a helmet, in 75 per cent of cases. In 23 per cent of the fatality cases, a passenger was being carried on an ATV. Studies undertaken by the CPSC show that helmets can reduce the risk of head injury by as much as 64 per cent and the risk of fatality by as much as 42 per cent. We should pause here to consider the real-life example of the consequences of inappropriate operator behaviour. This example comes from a recent 60 Minutes program.

Video shown.

Mr BAINES — Sadly despite what is shown in that show and despite industry efforts, we still see behaviour like this. An example was shown here on the Hot Property program, which was aired in Melbourne on 1 July this year.

Video shown.

Mr BAINES — I think the kids will benefit if they buy elsewhere, and if they continue to do what they are doing.

A recent study undertaken by the Australian Centre of Agricultural Health found that 40 per cent of accidents involved children under 15. The Heiden research emphasises that the failure to follow manufacturers’ warnings are still prevalent in accidents involving ATVs. As discussed, the industry has taken many steps to enhance the design and promote the safe use of ATVs.

In the USA as early as the 1980s the industry advocated the introduction of model legislation to ensure safety. This included introducing age restrictions on the use of adult-sized ATVs, properly maintaining the vehicle and wearing helmets. The Speciality Vehicle Institute of America (SVIA) in the USA reports that approximately 20 to 25 states have adopted some sort of ATV model legislation with approximately 15 states taking up the comprehensive ATV legislation. The most recent ATV safety legislation was enacted by West Virginia this year. In the light of the research and the practical experience of the industry, the industry’s position is that modifying behaviour of ATV users through legislation is the most effective way of further reducing the already low risk of ATV injury.

With proposed initiatives, history has shown that legislation can be very effective in creating the right conditions to modify behaviour. Fifty years ago, few people fought to wear seatbelts while driving motor cars, but legislation has changed that to the extent that it is very rare indeed to see an unrestrained passenger in a vehicle. Similarly, 50 years ago few people challenged the notion that smoking in confined spaces was unacceptable. We now know differently. Legislation curbing smoking in aircraft, trains and many work sites has brought about an attitudinal change. So with ATVs we can bring about attitudinal change by appropriate and targeted legislation to ensure that the already comprehensive safety measures that are adopted by the industry are made mandatory.

The distributors propose that legislation be amended to address four key areas of ATV use. Firstly is the mandatory wearing of helmets when using ATVs. The importance of this change in legislation is emphasised by the 1989 Consumer Produce Safety Commission (CPSC) study which showed that helmets can reduce the risk of head injury by as much as 64 per cent and the risk of fatality by as much as 42 per cent.

Not allowing passengers to ride on single operator ATVs is the second of the four key areas. It is highlighted by the Heiden research that 23 per cent of the fatality cases involve passengers.

The third key area is importantly not to allow children under 16 to ride on adult-sized ATVs. The significance of this proposed amendment is underlined by the recent study published by the Queensland Injury Surveillance Unit.
Between the period 1998 to 2002, 110 ATV-related injuries were presented to the QISU’s participating hospital emergency departments in Queensland. Almost 45 per cent of ATV injuries involve children under 16.

The fourth key area is introducing a userworthy certificate, similar to roadworthy certificates, for any purchase of a second-hand ATV. Anecdotally there are many older ATVs in the marketplace. A userworthy certificate will assist in ensuring that these vehicles are more adequately maintained.

However, we need to go further than these four steps. A more rigorous safety framework needs to be developed for work sites, in particular farms. The industry proposes amendments to the relevant Australian occupational health and safety legislation and other related regulations, advisory standards and codes of practice. A framework already exists. The distributors propose that the existing legislation be amended to include specific provisions relating to the safe use of ATVs on farms. The proposed framework needs to be built on the steps that the industry has already taken to enhance safety. The framework should address issues such as: introducing ATV operator safety standards which could be done by regulation, advisory standards or codes of practice; requiring all ATV operators to observe the recommendations contained in the operator manuals, service manuals, the ATV safety video and on-product warning decals; specifically introducing ATVs in the definition of plant or equipment in all relative legislation in all states; prescribing regular maintenance checks on ATVs; reinforcing compliance with legislation regarding helmets, passengers, under-age riders and userworthy certificates; requiring accredited ATV safety training by completion of an AT-approved course.

As I have already outlined, the industry has invested considerable time and money in developing training programs. The take-up of that training, however, has been very low. Mandated training would create significant demand to allow training to be provided through TAFE colleges as well as the manufacturers’ own trading organisations. As with any occupational health and safety measure, compliance with the legislative measures needs to be enforced or ensured through the compliance and audited functions provided by WorkCover.

At a national level we advocate the creation of an Australian standard for all ATVs sold in Australia along the lines of the American ANSI 2001 standard. Further we suggest that the legislation be introduced to ensure compliance with this standard. All ATVs distributed by the FCAI members satisfy this already. Currently there are ATVs being imported into Australia which do not comply with the standard in design and in warning labels. Standards Australia should be supported in its current evaluation of the Ag helmet or to develop a similar alternative helmet for farm use.

If such an alternative helmet complies with the Australian standard, the industry will endorse, promote and have available for sale that helmet to Australian farmers throughout its franchisees and dealer network. Government and educational authorities should create a farm safe unit which would be built into education throughout the school and TAFE systems especially in the country areas. Industry would assist in the provision of learning materials and technical resources. In partnership with government and local communities, we propose that the rural focus groups forums be established to learn what is going on in farm workplaces. Information gathered from such forums could be utilised to consider improvements in the future ATV safety initiatives. The industry is happy to work with government to promote and educate ATV users on the new legislative requirements via education programs, media advertising and supplementary material.

If these crucial issues are addressed, then we believe we will see a noticeable behavioural change and from there a reduction in the already low rate of ATV-related injuries and fatalities.

In conclusion, ATVs are safe, economical and useful vehicles specifically designed for off-road use. Their unique attributes have made them useful if not indispensable for farmers. The industry has looked into ROPS in great detail and found that it is simply not a practical solution to enhancing ATV safety. In fact the reverse may be true. Even though the risk of injury from ATVs is demonstrably low, we believe safety can be improved by further legislation. That is not the whole answer though. Legislation needs to be backed up by the government, industry and community measures I have already outlined. I would like to thank the committee for this opportunity, and I invite any questions.

Mr McQUILTERN — One of the things that has happened in the past is that we had a related problem with handguns, and it was argued that it was the operator who was the problem. That is just another thing that we have not quite thought about. There is a real problem with operators of machines or tools, and that is another option.
Mr BAINES — I do not know whether you want a response.

Dr NAPTHINE — Obviously you have put some work into those submissions. One of the things that has come out fairly clearly is the Ag hat that you talk about. It needs to be recognised under Australian standards. If we could achieve that, that is something that you have identified that is clearly necessary to reduce the injury rate or reduce the risk. Would the industry be prepared to provide a helmet — whether it be the Ag hat or the current ones that meet the standards — with all ATVs sold in Australia or Victoria?

Mr BAINES — The position at the moment is that we mentioned that 90 per cent of the ATVs sold are sold by the people who are here today. We are obviously conscious that there is at least 10 per cent — it is a growing percentage — out there who are not here today. We cannot speak on their behalf. If the standards approve such a helmet we would obviously have to look at how we could incorporate that sort of initiative. But obviously there is a cost involved in such an initiative and a workable solution. We would probably need to look at how we could best manage it and take it from a position of looking at whether it is going to make a difference. If it is, then we will do the best we can to support it. We would have to look at what is associated with whether we can fully fund it or not.

Dr NAPTHINE — I think the submission you made is very comprehensive, and to put forward such a forward-looking submission and recommendation does the industry credit. Congratulations. I know that one of the issues raised will be difficult for many ATV owners in a practical sense, particularly farmers. That is the need to have regular maintenance according to the manual’s standards. These vehicles are used on farms, and they are often not registered. So to travel or cart them to a service centre can often be difficult. Can you explain to me what the normal service schedule for these vehicles is and whether the manufacturers and suppliers of these vehicles would seek to move down a track of incorporating a certain level of servicing with regard to those vehicles like the car industry has for all vehicles for a certain number of years now? Because, again, if we are going to have legislation or requirements about maintenance to certain standards I think there is perhaps a role for industry to provide some incentive or encouragement to purchasers to do the right thing.

Mr COTTERELL — Can I just ask a question? What do you mean, that the car industry has been following?

Dr NAPTHINE — Free services.

Mr COTTERELL — The first service free?

Dr NAPTHINE — Yes, well, there are some who offer even more than the first free service; some car manufacturers offer free service for the first 50 000 or 100 000 kilometres.

Mr ALEXANDER — They’re out of Australia!

Dr NAPTHINE — The question remains.

Mr BAINES — Without looking at five different service manuals I cover myself by saying that most of us have a stipulation of how many hours they have to do, and as the vehicle progresses on in its life, similarly to your car service, obviously the number of checks and what is required increases. One of the problems we have with ATV service, which is unique to its particular application, unlike cars, is that the life of an ATV in a dairy environment is probably 12 to 18 months if they are lucky, if they are used as they are typically used and looked after, whereas on a rural property, on a sheep station, they can last for years and years. So it becomes very difficult to say to them that, speaking for the industry, from a service point of view, they should bring them back every six months. We all have a vast network of dealers covering as much of the country as is viable. A lot of the dealers now operate a service to the customer where they will actually go out and do on-site service. That is an initiative being taken up more and more by the dealers in the marketplace.

The CHAIR — One of your recommendations about introducing legislation to do with some of the issues, has there been any research done in the US about where the model legislation or comprehensive legislation has been introduced, where partial legislation has been introduced, and where no legislation has been introduced at all? Is there any research done on injury, accident and death rates in those particular states?
Mr BAINES — I believe there has been, but I do not have that information and we do not have that here, so if I can take that on notice we will come back to you with that information.

The CHAIR — Thank you.

Mr MITCHELL — With the data you have in here — the serious injury statistics data — it has cars, motorcycles, horses, but it is not a breakdown of farm injuries, though, is it? That includes all recreational and on-road use which then skews the figures a fair bit.

Mr BAINES — Unfortunately, with the way in which the data is collected, there is no separation, and — I am guessing — I would hazard that it would be the same as the horse statistics; they are not going to separate them and find out whether that was a work or recreational purpose.

Mr MITCHELL — Because I think that coming through the information that we have been getting over time is that the ATVs are not considered to be a dangerous part of farm machinery. These statistics do not sort of help when you have horses and motorcycles and cars involved because most of those accidents do not generally occur in the operation of a farm business.

Mr BAINES — I do not know if that could be said for horses. I would think that most that would be used in a rural environment would be used in a work application.

We have the same with recreational ATV use and deaths. If you have a look at the statistics, a lot of what has been reported on-farm is from recreational use. A recent example of an ATV death in Western Australia, where a young kid rode out of a private house in a suburb, across the road and was hit by a car, was recorded as an ATV fatality that most people are then going to associate with farm use, but it certainly was not the case.

Mr MITCHELL — You could question that. We are specifically looking at the farmers to clarify the difference between recreational use and work injuries. The rule of thumb seems to be that if there is a problem with ATVs they are farm injuries.

Mr BAINES — One of the areas that could be considered is to enforce training for them — I know I have a father-in-law who works on the land. He is in that 65-and-over category, and whether we are talking about spraying pesticides, riding ATVs, doing anything, there is never any reading of the regulations or instructions or advice. He knows best, and only when it goes wrong is he prepared to look, so whether you can legislate for training for people over 65! One of the points that my good colleague has just reinforced is the coronial issue. Coronial cases show every one of the male operators over 65 failed, again, to wear a helmet. So it goes back to the need to change their behaviour, get them to wear helmets to start with, get them to stop carrying their grandchildren on the ATVs with them when they go out to do something, get them to maintain the ATVs correctly, then if it were possible to get them to do the rider training I think we will have a big impact.
Mr McQUILTEN — Who is going to pay for it? You seem to be asking us to legislate for enforcement but there is a lot of money involved. Have you ever thought about having a sort of levy for marketing and advertising and really try and work hard to change behaviour? Because at the moment you seem to be just asking government to do it all, but it is your industry.

Mr BAINES — So far we have spent considerable money — the two organisations here and a few private enterprises — and there is not a take-up sufficiently enough to make these continually viable. We believe if the government legislates for training similar to what happened with youths getting car licences once the government legislated that you had to have driver training — —

Mr McQUILTEN — Okay, you do the training, but we pay for the training? If we purchase something you pay for it?

Mr BAINES — Where I was going with that is that once the government legislated that people had to get driver training before they got a car licence, once that occurred, commercial operators then opened up, because it was a viable thing to perform. We believe that if the government legislates for rider training for ATVs, commercial operators will open up and then operate that training.

Mr INGRAM — In the US you provide free training for new ATVS in the US?

Mr BAINES — Yes, there is a subsidy given and with that we are still only getting 18 per cent taking it up. I have not got the exact figures, but there is a much higher percentage of recreational people taking up the rider training in the US.

Mr WALSH — With the things you have there about children under 16 and wearing helmets and not carrying passengers and all of that, how would you in the industry propose that that sort of legislation could be enforced, and secondly, what sort of punitive force would you put in as penalties for those. If we could enforce it, and we actually caught someone, do you put someone in jail for six months for having someone on the back or whatever? It sounds very plausible — we just legislate — but it actually has to be enforceable, to mean something, so how does the industry propose it would do that?

Mr BAINES — WorkCover are supposed to be doing audits on farms now, and doing the checks. We did see an expansion in that area by WorkCover to actually do the inspecting, and I think half of it is the knowledge of the operator that there is a potential that they will get caught, and then there is an adherence to it.

Mr WALSH — So what sort of penalty clause is there?

The CHAIR — In section 21 of the model legislation they talk about up to $1000, $200 between the different offences, I suppose.

Mr BAINES — We could make it in line with the same penalty for not wearing a seatbelt in your motor vehicle. This is imposed. We could all look at other workplace penalties where people in a workplace do not comply with their obligations under the Occupational Health and Safety Act.

Mr WALSH — So we have our 60-something-year-old male who has no helmet on who gets fined $1000. He is going to be very happy, isn’t he?

Mr BAINES — He might be alive.

The CHAIR — It would be useful to know in the US again whether legislation has been introduced and what kind of enforcement has happened from there, and how effective it has been and how practical it is.

Mr BAINES — We will definitely have to take that one on notice to follow through, and I will come back to you.

Dr NAPTHINE — David, can I ask if the Parliament is to go down the track of legislating for compulsory wearing of helmets on ATVs, logically you would therefore also argue that there be similar legislation to say that it was compulsory to wear helmets for anybody riding a motorbike, whether that be on-road or off-road. Is that a logical conclusion from your position?
Mr BAINES — At the moment. We would not be opposed to that position. It would only make the people who buy our products safer. We might be able to have another answer to the question of what sort of damages. I am not aware of the exact figures, but the damages associated with a farmer, imposed on a farmer, who does not have ROPS on his tractor could be considered as relative.

Mr WALSH — Probably not a good example for you guys to use!

Mr MITCHELL — We have had people say about the design of the vehicle, you know, the high centre of gravity, narrow wheel track, that type of thing. Has the industry looked at ways of improving the stability with different wheel bases, different wheel tracks, gravities, differentials?

Mr BAINES — It is an area of development that I know the five manufacturers sitting here all spend considerable money on constantly improving the maximising of the centre of gravity and the width of wheel base to ensure maximum safety with maximum utility. If you like we could supply you a copy of the US industry standard, which explains in detail the areas in relation to stability, roll-over and — I will just have to look at my slide again for that — it is annexed to your submission already. Thank you.

Mr MITCHELL — Does that fly in the face of where it says ‘Industry argues that this would interfere with the evolved optimum design’ and that ‘ATV design is no longer capable of improvement’?

Mr BAINES — Sorry, where does that quote come from?

Mr MITCHELL — We’ll just find it. I’ll find you the exact page.

Dr NAPTHINE — While you are finding it can I ask you about the issue of people under 16 on so-called adult ATVs, would it be a clearer and simpler message to say to the community that nobody under 16 should ride any ATVs and the sale of so-called child-friendly or child user ATVs should be discontinued?

Mr BAINES — From the information we have, kids on ATVs has a very low incidence rate of accidents. We only have a problem when kids hop on adult ATVs. The kids’ ATVs are specifically designed, and there are two levels —

Mr INGRAM — Is that the rate of accident, or the rate of injury after accident? You said ‘rate of accidents’. I would not say it is a rate of accidents, more that there is a lesser injury rate when they do have an accident.

Mr WALSH — You would have no statistics on accidents?

Mr BAINES — No. It is only recorded as an injury. Sorry, I was not trying to trick anyone. There are two capacities of ATVs made for children, and they have been designed taking into consideration the children’s size, weight and typical attributes, and what they are able to do and able to achieve. They do not think that the solution of banning kids from ATVs is an appropriate one. We know that kids, particularly those aged 12 to 16, often help in the workplace on kids’ ATVs, so that would be taking away yet another resource the farmer has to try to complete his duties.

Mr INGRAM — David, your recommendations seem to adopt some of the elements of the model ATV regulation act that was developed in America but avoid any recommendations that would impose responsibility on manufacturers or distributors. In that model legislation I understand there is a number of recommendations that do impose restrictions or obligations on ATV distributors or manufacturers — for example, one that you say you do, but other manufacturers do not, is to make sure that safety labels are there, that you provide that information and you provide the video. If we were going down that line, why would we not have similar recommendations or legislation to impose obligations on the distributors?

Mr COTTERELL — Can you clarify that? We’re confused.

Mr BAINES — I think I missed that.

Mr INGRAM — It’s just that in your recommendations you are very specific about providing obligations or legislation on the users, the people who are using it, but not necessarily to ensure that those obligations are there for your own industry. I am saying why do we not have similar requirements on the industry to ensure that that
safety information is provided, and that there is a requirement that the new owner reads and signs off on that, and watches the video?

Mr BAINES — At the moment the five distributors here do that.

Mr INGRAM — Maybe the legislation should include that. If we are going to introduce legislation, should we not have that obligation in the legislation so that everyone does it?

Mr BAINES — We would be happy, because it would then encompass the whole ATV industry. That is actually covered under that ANSI standard in the US. In our presentation we asked that that standard be adopted here, so that would be encompassed in our position.

The CHAIR — Thank you very much. We know you have taken a lot of interest in the inquiry and spending a lot of time following what our witnesses have said. I hope the committee has a good idea of the issues involved with ATVs, from your point of view especially and from all other witnesses. Thank you very much for your comprehensive submission today. David, the transcript will be sent to you in a couple of weeks and you will be able to correct any matters of fact or grammar, but not matters of substance.

Committee adjourned.