RURAL AND REGIONAL SERVICES AND DEVELOPMENT COMMITTEE

Inquiry into cause of fatality and injury on Victorian farms

Melbourne – 20 January 2004

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Mr D. Russell, Senior Manager, Government and Policy (sworn); and
Mr M. Sleap, Research Officer, Victorian Automobile Chamber of Commerce;
Mr I. Goding, Chairman (sworn); and
Mr P. Dunphy, Manager(sworn), Farm Machinery Dealers Association.
The CHAIR — Welcome to this joint parliamentary committee inquiry into the cause of fatality and injury on Victorian farms. I think most of you were here when we started the day. Under the constitution and the parliamentary committees acts the committee is empowered to take all evidence at these hearings under oath or affirmation. I wish to advise you that evidence taken by this committee, including submissions, is, under the provisions of the Constitution Act, granted immunity from judicial review. I also wish to advise that any comments made by witnesses outside the committee’s hearing are not protected by parliamentary privilege but what you say here is. Could everyone please provide their full name and address.

Mr DUNPHY — Peter Joseph Dunphy, level 7, 464 St Kilda Road, Melbourne.

Mr GODING — Ian John Goding, Godings Machinery, corner Yea Road and Forest Street, Whittlesea.

Mr RUSSELL — David Victor Russell, Victorian Automobile Chamber of Commerce, 464 St Kilda Road, Melbourne.

Mr SLEAP — Michael John Sleap, VACC, 464 St Kilda Road, Melbourne.

The CHAIR — The evidence you provide us today will be taken down and become public evidence in due course. Would you begin by making a statement and some preliminary comments, after which we will ask you some questions.

Mr RUSSELL — Thank you for providing the opportunity for us to attend and elaborate on our submission. The VACC submission primarily involves information that revolves around our membership of the Farm Machinery Dealers Association. The chairman, Ian Goding, is with us representing that association, which is a very active division of VACC. It might not be immediately apparent but VACC members are significant suppliers of goods and services to agricultural industries. Probably more than half our members operate throughout regional Victoria and their daily customers are regional people on farms and related industries. Almost every aspect of farming these days involves mechanical aids, which are supplied, serviced and repaired by VACC members. The most significant of these businesses are our farm machinery dealer members. Others with an obvious interest in this matter of safety on farms are car and truck dealers, motorcycle dealers, all mechanical repairers and fuel distributors. All the above supply and work on farms as well.

VACC members have an acute awareness of the role they play as suppliers of goods and services and information. To assist farm machinery dealers to cope with their responsibility VACC has developed a hazard management system for farm machinery called Hazcheck, which was mentioned in our submission. Hazcheck is a systematic approach which applies to the assessment of risk and the supply of farm machinery, particularly second-hand machinery.

I was listening to Vin Delahunty giving some answers to questions on second-hand machinery. Hazcheck provides those answers. It has been developed by the committee in conjunction with Worksafe and over many hours commencing more than 10 years ago. We believe it provides a very useful system which should be adapted widely and encouraged. It is systematic. It is not, ‘Do this, do that’; it takes you through it very carefully. The farm machinery dealers who use Hazcheck are leading farmers towards a more thoughtful approach to the use of machinery. VACC members encourage farm safety through the distribution of Hazcheck information and also a safety manual which is provided usually at the same time as the supply of the piece of second-hand farm machinery. That has also been in place for quite some time. Our aim is to bring together the various sectors of the industry that can combine to improve farm safety. The evidence is here in these publications. We think there should be a coordinated approach which adopts the principles of Hazcheck. Our preference is to widely distribute Hazcheck. We think that the Hazcheck assessment process could be adopted by farmers as an on-farm tool — that they could actually use that sort of process to assess themselves and what they are actually doing before they engage in the process of using a piece of farm machinery.

More than 80 per cent of VACC Farm Machinery Dealers Association members already use Hazcheck. That can be improved. Training is provided along with it. Vin was asked about training. Hazcheck comes with training. It is not just, ‘Here you go, use it’. It is designed to meet the obligations that both machinery dealers and farmers have under the Occupational Health and Safety Act.

In our submission we talked about a number of the key issues. I will not go through them all now but we note that farm machinery can have a very long life and many pieces of the equipment remain in use when innovations have greatly improved safety on new machines that are used for the same task — for example, tractors now compulsorily have rollover protection frames; however there are still many tractors that do not have frames or in
some cases they have non-compliant frames. We think there is scope for a lot more work to be done in that area to improve compliance. Again — and I keep coming back to this — Hazcheck does that task. We wish to impress on the committee that all these things happen out there in the field, on the farm, or the farm machinery dealership, and we encourage the committee to visit farm machinery dealer locations — one or more. We invite committee members — and perhaps we can suggest a convenient location — to see how it is done in the yard and the workshop, and how the farm machinery dealers use this system that we have developed.

I do not want to take any more time with my opening statement. I note several questions were put to us in the correspondence that invited us to attend this public hearing. We have not prepared full written answers to those questions, but I suggest that perhaps I will prepare full written answers to those questions and send them in subsequent to this hearing because you may not get through all that material over the time we have available to us today. Leaving it there, I would be happy to answer questions, and I will most of the time defer to my chairman, Mr Goding.

**Dr NAPTHINE** — When a piece of machinery that has been through the Hazcheck process is sold, do the dealers provide the purchaser with a certificate saying it has been Hazchecked as of such and such a date so they know they are getting a checked piece of machinery?

**Mr GODING** — Perhaps to answer a couple of questions that came up earlier in the same statement, the whole process of compliance is sequential. Earlier it was said it was the manufacturer, the designer, et cetera, going right through to the dealer. The process of hazard identification is to assess any predictable hazards, to rate them in terms of their degree of seriousness and the subsequent injuries that might occur from them, and then having rated them, to set about a task to minimise or eliminate the risk in what is termed the most practical fashion. The process would be that we would assess the machine, bring it in, understand what risks might be inherent in that particular piece of plant from an operational point of view, and then minimise the risks and document that process.

In so doing we would then present the machine for sale. When the purchaser purchased it we would give him some safe-use instructions. It might be worth while handing out this document. The centre section of this booklet, which has generic safety instruction for farm use, is the safe-use instructions for the machine. We qualify that we have given him instruction in the operation of it, we have provided manuals if they are available, we have pointed out predictable risks, and at the same stage it has to be put in terms that are relevant to the application. It tells you the intended application and the limitations or exceptions to use. If I sell a tractor to mow in a public parkway it may well be different to one that will be sold for stationary pumping or other distinct applications. So the application is taken into account because it can be many and varied. The customer will sign this document and we will give him a copy of the booklet, which has the safe-use instructions. We will retain a copy for our purposes. That is the final stage of the Hazcheck solution.

In terms of obligations, earlier the question was asked, ‘What happens if I sell my Grey Fergy privately?’ There is an obligation on any seller to have hazard identification risk assessment done on the product he sells. He can sell it without that, but if a person is injured then he is liable. If you sold your Grey Fergy and your next door neighbour killed himself, it comes back on you. That is the simple process, but it is not always understood, and understanding is one of the biggest problems with the system as it currently stands.

This system probably took six to eight years of solid hard work to get together. The starting point was to identify generic risks, categorise them and do something about it. I might recall the first meeting we had with Workcover. There were four people present with four different opinions, and it was going in the direction that we simply could not be prescriptive about this. The statement was made that, ‘Until it goes to a court of law we cannot do anything about it’. We do not want to get that far so we invited Workcover to come to our dealership. We gave three assessors the opportunity to assess the risks on machines in our yard, and they gave us three different solutions. Then we convinced them that there was a need to take a practical application to it. We set about the task, and this was the result after revision 3 and many hours of work. That was a long answer to a short question, but it may pick up some other questions.

**Mr CRUTCHFIELD** — It is not compulsory though, is it?

**Mr GODING** — It is the obligation of the selling person, dealer or private, to provide a hazard identification risk assessment or otherwise sell the goods for wrecking or non-application — not to be put into use. It is a law that all machines must have it, yes. If he is not going to provide it then the auctioneer often says it is being sold for wrecking purposes.
Dr NAPTHINE — I have been to a lot of country clearance sales that sell tractors and farm machines, but I have never seen that.

Mr RUSSELL — It is a concern that in some locations and places where you buy equipment that the most commonsense approach is not being taken, yet when you go to a dealer you will get the correct approach being applied. I think it is worthy of identification as an issue.

Mr MITCHELL — Do all your dealers have the Hazcheck system?

Mr RUSSELL — I said earlier 80 per cent.

Mr GODING — Eighty per cent have gone through this initially — that is, of those who are members of the Farm Machinery Dealers Association. There are dealers who are not members, and therefore one may not even know about it or may choose not to know about it. It is a commercial cost to us to apply. There will be varying degrees of interpretation. As education comes along, as more people are being trained, then compliance is becoming more and more accepted. It is a long process.

Mr RUSSELL — One of the answers to that question is that we want it to become the most used and most acceptable process so that the public purchasers can identify in their own minds — and you mentioned the roadworthiness of cars — that when they buy a piece of second-hand equipment they will get some documentation. They start to expect it and demand it. That would be part of the education that Ian is referring to — to get it to that point, to make the public aware and get to that higher level of development.

Dr NAPTHINE — Can you explain the breadth of what you determine as second-hand farm equipment that would come under Hazcheck? Does it include ATVs, does it include boom spray equipment or does it only include things like tractors and headers?

Mr GODING — The Hazcheck management system is not something that has been dreamt up. It is built around the plant safety regulations which were originally drafted for factory and industrial application. Some of the terminology, like cutting, pinching and drawing, you would find in a car factory or whatever. We are all drawn in under the same act. Any piece of plant in a workplace that is used for productive purposes, or in the productive process, can be deemed as being plant and therefore needs to be assessed under that same methodology.

The Hazcheck management system can be used for any plant for that purpose. What is different about this system is that it actually offers some guidelines to the users. We have framed different classes of machinery, like tractors, lifting devices, power take-off driven implements and engine driven implements, into different categories, and we have built together a generic risk assessment which they call a good practice guideline. It tells you what is an acceptable form of that particular type of machine. If you comply with it you do not have to do everything again. It is making it easy. It is designed as a solution which makes hazard identification risk assessment achievable with a minimal amount of rework and waste. You could certainly assess anything from an ATV through to a tractor or a header or whatever under the same set of tools.

It also takes into account qualification. Under this guideline I, as an employer, have to ensure that the people I have who complete the risk assessment and risk management processes are competent people. The people I am relying on to do that work for me have to demonstrate to me through their industry experience and their state of knowledge of the words commonly used that they have a state of knowledge and are competent in their roles. There is a process there to assess that. It is all part of that process. Yes, you could use it for anything.

We have gone another step with this. We have taken it interstate. The New South Wales Workcover authority has endorsed it; the dealers in New South Wales have endorsed it; the Queensland dealers have endorsed it. South Australia has had the same training modified to its system. We have even taken into account the Gunningham report which came out recently and which took into account all the variations throughout Australia. This has now been modified to a national standard and takes into account all those noted variations state by state that have been brought out by the Gunningham report on this very subject. We would like to see that standard used by the Workcover authorities, not at the top end but that the guy who will rock up to the farm and do the assessment will be using that form which we know the dealer will have used and the farmer will have used in his assessment, because the farmer also should have hazard identification risk assessments conducted on all plant on the farm. They should know it is a safe piece of plant. And if they followed this methodology it would help them to do it.

The CHAIR — When someone comes to you to purchase a piece of machinery — I think Vin commented on this before — there are a lot of other issues apart from the machinery, so the person who uses that...
machine, who takes it away may not have any experience, tickets or licences or whatever. Is it part of the Hazcheck system to give advice or information about where to go to learn how to use this machinery properly, or anything along those lines at all?

Mr GODING — There is an obligation on us as a seller to give safe-use instructions. Our people in the field giving delivery of this product need to explain to somebody the full use of it. It deals with that in a point-by-point form. It talks about the things we have to tick off as a deliverer: operators handbook supplied; starting and stopping instructions; identification of operation controls; operating procedure; other hazards like cutters, blades, projectiles, et cetera. It goes through a whole sequence of checks. They will have signed on receipt of those goods that they have received at least a minimal form of instruction on the fact that these are relevant issues to them.

There is starting to appear some basic farm machinery training courses. I note NMIT at its Epping campus provides a basic operator instruction training course. I do not know how extensive that is, but obviously if it is bringing it into the curriculum it is something we would like to see. We would like to see Hazcheck not just become the measurement for compliance but the guideline right across the training aspect. It should be in anything almost from primary school to secondary school to the agricultural training colleges. It should certainly be a subject in agricultural training colleges. When our heavy stream mechanics do their agricultural course at Kangan Batman TAFE there should be a subject on hazard identification risk assessment for plant. If you had a national standard of assessment of plant risk minimisation and delivery of equipment for use, and it was consistent from the youngest to the oldest, and from a compliance or prosecution aspect right through to the user-operator, then I cannot see what else you would need.

Mr WALSH — In your submission you talk about ATVs and you say VACC would support the introduction of practical hazard and risk management systems or engineering solutions that would lead to a reduction in ATV accidents. Have you any idea what they might be?

Mr RUSSELL — We are aware the coroner continues to inquire into four deaths with regard to ATVs, and we would want to wait until the coroner has provided his report before we commented further. The most active word in the sentence is ‘practicable’. We are also aware that it is not easy to design or redesign an ATV in an engineering sense to change its basic function, which is a ride-on vehicle, so I suppose we will be awaiting the outcome of the coroner’s report before we do much more on the subject.

Mr WALSH — But if you look at the fact that the ATV market in Australia is probably less than 5 per cent of the world market because they are all manufactured overseas, if we had significant engineering differences in Australia would we stop the supply of ATVs, or would we price them out of their segment by doing that?

Mr RUSSELL — It may be that the engineering is very simple. It may be that we are not talking about major changes to the basic design of an ATV, which is basically a four-wheel motorcycle. One thing that does come to mind immediately is that when you ride a motorcycle it is pretty much accepted that you wear an appropriate helmet. I do not think there is the same level of acceptance when people ride ATVs. For some reason they consider them differently.

Mr McQUILTMEN — I notice there is no roll bar on the one on Mars at the moment.

Mr SLEAP — There is also no rider!

Mr RUSSELL — Yes, that one is very safe and practical.

Dr NAPTHINE — Does the VACC have a view about whether the current driver licensing or operator licensing laws are adequate for tractors, ATVs, motorbikes and cars or would the VACC believe that there should be some improvements or modifications? Should we have to have a special licence for anybody to be able to drive a tractor?

Mr RUSSELL — I think we would probably prefer Ian’s approach, which is that people receive appropriate training in the use of machinery, being so wide and varied, and a tractor is only one element of it. I do not think we would be looking for extra licensing arrangements to use a piece of equipment on a farm. There is some analogy to certain types of equipment that are used in factory locations where licensing is required on cranes or forklifts, but I do not think we would be taking it that far. Training is more what we would be looking for. Ian, would you like to comment on that?
Mr GODING — The whole technical training regime that has been brought in now for all sorts of study is that it is broken down and segmented. Whereas originally you might have had a qualification for a motor mechanic, a motor mechanic’s qualification has now been broken up into different segments so he will have a qualification in hydraulics, airconditioning, et cetera. There is no reason in our view why hazard identification, for instance, could not be something that takes a module that could be transferred into another part of a career path. He might not end up there, but he would carry it with him as a transportable module.

Similarly, if training is involved there is no reason why, having completed a training course, a person could not give some assurance to an employer because they could say, ‘Yes, I have undergone tractor training at TAFE’, so there is room for that without it having to be prescriptive. If you make it too hard — you introduce a licensing regime, a cost factor — it becomes unwieldy and difficult to administer, whereas if the owner of a property employs people and assures himself that they are competent by having seen that they have received some form of instruction which is recognised then maybe that is a path they can take without it becoming prescriptive. There are still people who have to have forklift licences on farms. If they are driving a forklift they still come under those regimes.

Dr NAPTHINE — Front-end loaders have to have a special permit, and with trucks you need endorsed licences.

Mr RUSSELL — Mostly for operation on the road. I am conscious we did not address some questions that were put to us by Kristen in her letter inviting us.

Ms MURRAY — They were just a guide.

Dr NAPTHINE — Your advice on them would be appreciated, if you could give it.

Mr RUSSELL — There were a number of them, and I did not think we were going to get through them. We covered a couple on the way through. I think in particular we would like to make some comments on the use of advertising and promotional campaigns to improve safety. Our view on that issue is that there needs to be a coordinated approach, that this issue is perhaps being dealt with by different people at different levels and there is not a single message that is getting through to everybody who is involved in either on-farm use or in the industry or as a supplier or whatever. Therefore if we are going to look for a single message we need a coordinated industry and user group of some kind. Perhaps it is a bit like the sorts of messages that we are all now very familiar with that have come to us via the Transport Accident Commission. That is a very big undertaking, but this is an important issue and there is a very wide audience for this issue.

In terms of promotion, obviously more needs to be done and somehow that needs a coordinated approach. People still do not understand what their responsibilities are. The roll bar programs were very effective; people understood them. We have all sorts of figures about how many roll bars might not be fitted to tractors, but if you took a snapshot of our dealership today you would find there are tractors with homemade roll bars on them which we are now having to pull off and replace before we resell them.

There are second-hand Japanese import tractors that we referred to here when Vin spoke to you; one of them is underweight, the owner would not stand the risk, and it is certainly not captured by legislation. The second one is over the minimum weight and is being sold by a dealer somewhere — I could find out where without too much trouble — without a roll bar on it; it is not compliant. I have just traded one and am reselling one which has a roll bar but which does not have the covers on over the take-off, and there are other non-compliant issues which we are dealing with under this guideline here. Somehow or another the depth and the actual intricacy of the requirements needs to be understood by everybody. You need to understand that if you sell your Grey Fergy without Hazcheck available you are at risk because you could lose your house over this. They are the sorts of messages that need to be understood, both at inspector level and right across the board, and I do not think people have anywhere near that level of understanding. A common platform is what we are talking about.

Mr McQUILTEN — Are grey imports a big problem?

Mr GODING — Yes, huge, and grey importers are usually not concerned about risk elements. They will all meet with a minimum, but we have reported instances of grey imports and given the cases to Workcover and never yet on one of those cases we reported have we had a report back as to the outcome. I think that the Workcover people are very conscientious, they are terrific people to deal with — I have had a lot of close dealings with them — but they are terribly underresourced and they do not have physical time to chase these things up. When they employ new officers they need a platform to work from, which this would provide. They have already
endorsed it, so all those sort of things need to be pulled together at the rural Workcover authority. They need the muscle, the understanding and the methodology which is consistent across the industry to do it.

Mr WALSH — In one of your other submissions someone talks about the fact that Workcover officers are prohibited from giving advice on farms as to what should and should not be done. Do you see that as an issue?

Mr GODING — If you take my example of three officers assessing the same number of machines and giving different opinions, we had to crack that by giving some guidelines — this is an endorsed system — that they could refer to, or they could refer to somebody who had been trained enough to do the assessment for them. We can never be authorities on everything, but there is a risk of having different interpretations.

Mr WALSH — It was in the context of when a Workcover officer comes on to a farm and goes through the stuff, the way I read the submission they cannot give the farmer some advice as to what he could do; they can only basically say whether he has complied or not complied.

Mr GODING — They could point out where he is non-compliant, but they could also give him direction back to the plant safety guidelines and all of the publications produced by Workcover, and this one here, as a method of management if he wanted to make himself compliant, to provide him with a direction to go in to get the tools to comply with his requirements under the act.

Mr WALSH — So he could do that?

Mr GODING — Absolutely.

Mr RUSSELL — We could recommend that they do that, but there is a resource available that is currently not being used; and as the Workcover resource itself is very thin, they need all the help they can get.

Dr NAPTHINE — That is an issue. I have had constant complaints. One particular example comes to mind. Recently there was a workplace injury: somebody fell off the back of a truck that was being loaded with gravel and injured themselves. Workcover came out to inspect it, and the owner of the truck was told it was non-compliant. He asked what he could do to fix it, and they said, ‘That is your problem. If I give you advice and it does not work, you can sue Workcover so I am not allowed to give you advice. I can just tell you it is non-compliant. You come back a week’s time and I will tell you whether what you have done is compliant’. The owner of the truck said, ‘How do I go about that?’ Workcover said, ‘That is your problem’. That was a real dilemma. Time and again we hear these stories where Workcover says it is not compliant but feels constrained about giving advice or is unable to give advice about how to make it compliant.

Mr RUSSELL — Hence the development of Hazcheck to assist, in this case, farm machinery dealers to cope with that sort of problem.

Mr GODING — That person with the truck should have done his hazard identification risk assessment. If he understood his obligations under the act, he would know he is to be informed as to how to go about that, in which case we would have already had a report that assessed the risks and the relative injury level and the degree of injury, and he would have rated them as 3 plus 2, 1 plus 4 or whatever, and then come up with the regime to fix that — the minimisation aspect. That renders some machines unsaleable in practical terms, and we have had to scrap a lot of things on that basis.

From an operational point of view, if I assess properly a machine that I might be prepared to trade in, for example, and I think the cost of making it reasonably safe is too high or the cost of that exceeds the value of the machine, then its value is nil, so it should be taken out of service. But unless everybody does it the same the next fellow will assess it with some value, I will lose the deal, and the whole thing will fall apart. Therefore everybody has to do it.

Mr WALSH — How do you get everyone to do it?

Mr GODING — By being prescriptive. Only about 150 dealers in Victoria are bona fide. We can assume that they will have some level of understanding out of what is available, but it is not hard to identify other people who are bringing in grey import tractors, jumping on the Web and hopping into the local publications on used farm machinery — they are all there. Come to our association, and we would be able to assist.

Mr WALSH — Whose role is it to police all that?
Mr GODING — Workcover’s, and to react to complaints. Workcover’s general approach — I might stand corrected on this — has been because it is such a daunting task, the industry is so diverse, Workcover has targeted specific sectors where there might have been a high-risk thing for a short time. It has targeted the grape industry because somebody fell off a grape trailer a couple of years ago. Workcover went into a few of our vineyards and gave them a real hard time and sorted a few things out, but that is only one tiny pocket of the total spectrum of the industry.

The CHAIR — David, is there anything further you would like to add?

Mr RUSSELL — No, thank you. I will just reiterate that invitation that we made earlier to the committee to attend a farm machinery dealer business and see how this Hazcheck assessment is undertaken and to be able to ask questions there in the field at the time.

The CHAIR — Thank you very much. We will try to coordinate something along those lines. You will receive a copy of the transcript in the next fortnight, and you may correct any obvious errors of fact or grammar but not matters of substance. Thank you very much for giving us your written submissions previously and then for giving us your time today as well. It has been very helpful.

Witnesses withdrew.