

TRANSCRIPT

ROAD SAFETY COMMITTEE

Inquiry into motorcycle safety

Melbourne—31 August 2012

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Mr R. Salvatore, research analyst, Victorian Motorcycle Council; and

Mr R. Smith, manager Australian Riders' Division, Motorcycling Australia.

The CHAIR — Good morning. Welcome to a public hearing of the Victorian parliamentary Road Safety Committee. The purpose of the hearings today is to obtain further information in relation to the recent Transport Accident Commission motorcycle “Reconstruction” television advertisement. I would ask observers to respect the rights of witnesses and the responsibilities of the committee by keeping noise and movement to a minimum. I would also ask that observers refrain from making any commentary while witnesses are speaking. Today’s proceedings will be recorded, and an official transcript will be placed on the web. Please note that any personal recording devices, if used, cannot interfere with the official recording of today’s hearing, and any reproduction or re-publication of personal recordings and should be an accurate and balanced extract for reproduction.

I would also everyone to ensure that their mobile phones are switched off or on mute. To witnesses – I thank you for attending the hearings today. You are reminded that anything you say or publish before the committee today is protected by parliamentary privilege. However, once you leave the hearing, anything you say or publish outside this room is not so protected. Please ensure you identify yourself when speaking for the first time. Again, thank you for coming along today. I just make my own small comment – in Queens Hall of the Victorian Parliament during the week there was a NICTA display that dealt with innovation in information and communications technologies. It noted in one of the devices, a radar device, that there were 1.2 million road deaths around the world each year, and the cost of that, together with the related injuries, is over \$500 billion per year. We are dealing with serious matters this morning, and I do thank everyone for your interest in coming along here today.

The first presentation this morning will be from the Victorian Motorcycle Council, and I welcome Mr Peter Baulch, the chairman; Mr Rob Salvatore, research analyst; and Mr Rob Smith, Australian Riders’ Division manager, Motorcycling Australia. I invite you to commence your presentation today.

Mr BAULCH — Thank you, Mr Chairman, and members. My name is Peter Baulch. I am chairman of the Victorian Motorcycle Council.

The CHAIR — Peter, just wait. Can people hear down the back? Can you hear at the very back? If you cannot, please indicate to me. It is important that everyone can follow proceedings this morning

Comment from the floor.

The CHAIR — If it is possible to even speak up louder so the voice does resonate down the back, that would be very useful.

Mr BAULCH — Thank you, Mr Chairman. We, the Victorian Motorcycle Council, representing directly over 100 000 Victorian motorcyclists are indebted to your inquiry for extending submissions and providing for today’s proceedings. We are the voice of motorcycling in Victoria due to the maturing of the networks of other motorcycling organisations, including but not limited to, the MRAV, Motorcycling Australia, Ulysses, the BMW Club and, by its presence today and for its support, the Independent Riders’ Group. Our designation is as representative delegates to the peak body for motorcycling in Australia: the Australian Motorcycle Council. Our own dealings with the Road Safety Committee and this inquiry members and your helpful staff have left us in no doubt about the sincerity of this process and of those involved. We value the mutual respect evident between the inquiry panel and the Victorian Motorcycle Council.

Let us give you gentlemen a slightly different perspective. Rob Salvatore and I have just spent the last weekend as delegates to the Australian Motorcycle Council conference, which included a few hard-nosed motorcycling advocates, and it was pretty clear to us that the nation’s motorcycle advocates respected this inquiry and in some quarters lamented not having one of their own. It is a unique, once-in-a-generation opportunity to put forward the cause of safe motorcycling, albeit the Victorian perspective, but you can bet your bottom dollar there will be echoes and reverberations outside of Victoria. One particular rep, who had the opportunity to spend a decent bit of time with the Road Safety Committee not that long ago, made it very clear to us that his initial cynicism about this group of polities from Victoria was utterly dispelled. We are privileged to have been given the opportunity to be in the pointy-edged seat today to take our concerns to your inquiry. It will not just be our views that we will be presenting either but the collective opinions and views of our member clubs and the input from Netrider and many, many conversations that we have had at all levels of

motorcyclists and the motorcycling industry since the TAC ad came out in May and the many others we have spied on, visiting rider forums in many corners of the net.

We can tell you that it is very reassuring for us to know that whatever time we are granted today will be genuine use of our time. Our presentation and submission today is designed to shed some light and gain some answers to important questions surrounding the entire complex and sophisticated subject of road safety in general and motorcycling safety in particular. The recent TAC “Reconstruction” advertisement has provided the catalyst for much of what we will present today. We trust that your inquiry will share with us in seeking answers to such questions as: why the current strategies being employed by the TAC cannot achieve its own stated goal? Question 2: why the TAC failure to consult regularly and consistently with recognised rider expertise is detrimental to safe motorcycling – for example, the latest “Reconstruction” ad and even the CD and currently online Ride Smart program. Why the failure of the TAC to consult recognised international studies, preferring its own internal data, may not provide the basis for the best outcomes. Question 4: why does the TAC argue, on one hand, that training and education do not have any road safety benefits, but its own CD and online Ride Smart program states this:

...training program will help reduce the trauma by improving the skills of motorcyclists ...

Question 5: is motorcycle safety best served with a one-dimensional speed mantra marketing philosophy in such a complex and sophisticated subject as road safety? Question 6: why do many motorcycling TAC ads lack credibility? If the depiction in the ads lacks credibility, the message that it is intended to convey to its target audience is lost immediately. Question 7: why did the TAC incorrectly support the last “Reconstruction” ad where a reference to case law in defending the illegal actions of the car driver depicted in the ad?

Rob Smith firstly and then followed by Rob Salvatore, our research, policy and data analyst, will present an extremely detailed submission in respect of the above questions. Whatever has happened in the past has passed. Success in this forum will look like not being back here in 5 or 10 years time asking the same questions. We cannot afford the luxury of keeping on doing the same things and expecting different outcomes. Before I hand over to the two Robs let me pose one final question: how good could motorcycle safety be in Victoria if the considerable marketing and PR expertise of the TAC was constructively, continuously and cooperatively combined with the considerable recognised rider expertise available from within our own motorcycling community? Thank you, Mr Chairman. I now call on Rob Smith from Motorcycling Australia for some additional remarks.

Mr SMITH — Thank you, Peter. Thank you, Mr Chairman, and assembled representatives of the committee.

The CHAIR — Rob, if you are able to speak up; I want everyone to be able hear in the room. If it’s not audible, please let me know.

Comment from the floor.

Mr SMITH — Bounce it off the back wall. I will do that. You know I am a shy, retiring type! Thank you again, ladies and gentlemen and indeed everybody who is here, for being here today on what is, I believe, a momentous occasion. It signifies a lot of things, not the least being that finally motorcyclists and motorcycle rider representatives are presenting in a cohesive manner. This is a very fine day for us. In its motorcycle strategy from 2010 the TAC asserts that the overall cost to it of motorcycle claims in 2007–08 is in the order four to five times higher per vehicle than for passenger cars. The question here is: is this because motorcycle costs have gone up, as inferred, or have they remained the same as a product of no change in vulnerability and the per unit cost of passenger vehicles dropped due to improved crash performance of passenger cars? Un-peer reviewed but often quoted research claims that motorcyclists are 38 times more likely to be injured in a crash compared to car occupants. This should come as no surprise, given the fact that one is outside the vehicle and the other is inside the vehicle. Discounting the fact that this is both axiomatic and statistically questionable, given the unreliable nature of using kilometres travelled as a measure for motorcycle travel, motorcyclists are compared to car occupants, for whom there have been giant steps forward in car protection. There are, of course, assertions that motorcyclists are overrepresented in road trauma, and the TAC claims

data. This is undoubtedly true, but it is presented as being the outcome of behaviour, justified through the use of surveys with loaded questions. In truth, it is an outcome of vulnerability. Let me present an analogy. In a battle scenario the infantry suffer heavier losses than the tank crews. It is self-evident, and it is not the fault of the ground soldiers simply because they are outside the tank. The aim of the TAC strategy is to reduce rider injury, which is philosophically laudable. However, the methods used have encouraged the tank drivers to regard the infantry as the enemy, even though they are on the same side.

Over the last 20 years we have seen registrations for motorcycles skyrocket by 100 per cent and crash rates for motorcyclists plummet. The reasons for the drop are far more complex than just the lowering of speeds simply because the drops in speed mean very little in terms of survivability to the vulnerable. A crash at 60 is no more survivable than a crash at 68 in terms of severity for a motorcyclist. The fact that 20 years coincides with the inception of widespread learner and licence training, coupled with the internet information explosion, should not be regarded as coincidental. Riders are now more knowledgeable and proactive than they have ever been in the reduction of crash rates, and it is a clear indicator that the wider rider population has contracted to safety above and beyond their car driving counterparts. We will no doubt hear that the TAC has no axe to grind with motorcyclists and it seeks what is best for us. We accept that. We will hear that they frequently consult through focus groups, safety specialists and a range of others. This is all true to a greater or lesser extent, and certainly I personally have consulted on projects such as the Ride Smart project. It makes sense to consult with those who have training expertise if you are developing a training product. However, if you want to present and create a public education program, you need to consult with the public.

It is possible that we will hear from the TAC that the feedback to this campaign has been positive. Claiming that negative comment, regardless of sentiment, is positive is patently flawed. It would be like Bill Clinton claiming that the Monica Lewinsky affair was actually good for his career just because people still talk about it. The real issue here is not about the mechanics of a poorly conceived TV ad or the misrepresentation of a crash scenario when the TAC's own statistics show that 84 per cent of drivers are at fault. It is actually about the fallout of this ad and not just this ad, a series of ads that have shown motorcyclists in a negative light that leads to a stereotype that perpetuates the belief that a rider's safety is not a shared responsibility. I am going to hand over to Rob Salvatore now to make this presentation. Of all the people I have met in this industry, Rob Salvatore is probably one of the most well-versed and well-read in this issue. I look forward to this presentation as I hope everyone here does because it is a very informative presentation. Thank you, Mr Chairman.

Mr SALVATORE — Thanks, Rob. We can all go home because he has literally summarised the whole presentation! I would just like to just enter a few personal remarks before — —

The CHAIR — One second, Rob. Can you hear up the back? Can anyone not hear? A little bit hard. If you can bounce even louder.

Mr SALVATORE — In a moment I will need towards the laptop so I will be projecting to the back of the room.

The CHAIR — Thank you.

Mr SALVATORE — First and foremost, it is my great honour to be here before the committee on such an important moment in motorcycling history for Victoria. I thank the committee for making this opportunity available and also the staff for making us feel supported and welcomed. As an engineer and a motorcycle on road coach, I look at the stats and I see that motorcycling has never been safer, yet it boggles my rational mind that never before have apparently more forces been marshalled against motorcycling. As a rational engineer it just confuses me. The general public perception, fuelled by the media, is that riding is so ostensibly dangerous that as soon as you swing a leg over a motorbike you are going to die – no right-thinking person would actually get on a motorbike. But the participation in motorcycling is the fastest growing road user sector, and it has been for over a decade. The TAC is instrumental in shaping that public opinion, in my view, so I am convinced that it is both to blame and also the solution to helping rectify that public perception.

I would like to get on the record that I personally believe that the TAC offers an excellent no-fault accident insurance scheme, and Victoria is extremely lucky to have a world best practice no-fault insurance scheme. I

believe that the people at the TAC are sincere and have a genuine interest in looking after accident victims and a genuine interest in reducing road trauma. So I believe collectively that their hearts are in the right place; I have no doubt. But it is clear to me, and I believe it is entirely demonstrable – and I think an inquiry would show this to be the case – that organisationally the TAC has a very deep belief in its marketing driven, one-dimensional approach to road safety. And it is that aspect of the TAC that I have an issue with and the VMC has an issue with, and I think it is that aspect that the parliamentary inquiry should have closer look at. So I am not here today with an axe to grind against the TAC, far from it. I share their goal of trying to reduce motorcycle road trauma; I think it is very important, but also important is that the room is filled with passionate riders – passionate riders definitely, who by their very presence are giving the TAC a message, and it is message that the current culture within the TAC too readily dismisses and a message that it too readily categorises as an unrepresentative, disgruntled minority who have become uncomfortable in the TAC’s spotlight. That tendency towards dismissiveness, of which there are many examples, in my mind is a clear expression of the TAC’s current modus operandi, and it is not much of a stretch to describe it as a form of intellectual dishonesty, and it has taken over the road safety culture within the TAC.

Outwardly at least it appears that the TAC does not care what people are saying about its campaigns or what actual views are expressed or whether the reasoned and rational critiques are valid. They do not appear to care, and they are on record as being ‘delighted’ by the robust discussion, and they are delighted by the controversy generated by their campaigns because, after all, controversy months after the campaign means that their message and their point is still front and centre in people’s minds. The key metric of success is whether their campaigns are being discussed and whether their campaigns are being remembered. That is not a genuine measure of success, and it should have no place in Victoria’s peak body for road safety. So an organisation that only hears what it wants to hear, that has no barometer, no balance and no way of determining whether they are actually achieving a genuine engagement in their road safety message – that kind of organisation is interested in delivering a carefully crafted and marketed idea. That kind of organisation, the kind that is both the implementer of strategies and the adjudicator of its successes, cannot be considered genuinely objective. Objectivity and intellectual honesty needs to come back into Victoria’s road safety administration. It is time for a paradigm shift, and that is why we are here: to encourage that shift.

One last comment: to steal a turn of phrase – what does success look like here? It is a great question. In part it means the absence of a them-and-us and a blame-the-rider mentality. It also means a cohesive working relationship where road safety campaigns are developed in conjunction with the key stakeholders. I do not envy the TAC; it has had some trouble getting the key stakeholders on board, but I believe we are here now, and we are moving forward on the shoulders of people who have come before us. So that is what we do not have today: we do not have what I consider the successful picture of the future, but that is what I would like. It is time for a paradigm shift, and that is why I am here today: to encourage that shift. I need to move towards the laptop. Excuse me just a moment.

Overheads shown.

My presentation today is quite involved, and I will not go through all aspects, but I will invite the committee to review it in depth at its own leisure. There are some 100 slides. We will not going through all them today. I can see some nods of appreciation about that! There are four key topics that the presentation covers. We will have a look at the motorcycle safety strategy of the TAC, whether the TAC understands riders, and we will have a look at the ‘Reconstruction’ advert and then what the future looks like. I will start at the future. We will summarise the conclusions and what the future looks like. I will start there, and then I will skip through various parts of the presentation.

The VMC recognises the TAC’s no-fault accident insurance system is an excellent scheme – no two ways about it. It is a valuable community asset, and we are very lucky to have it. I just want to make that absolutely clear, but their safety strategy, their motorcycle strategy, has been shown to be an injury mitigation strategy, not an accident prevention strategy, and that is very important. At times their approach to motorcycling safety has been shown to be at odds with safe motorcycling, and it does not appear to have contained much independent motorcycle expertise. The ‘Reconstruction’ ad had no motorcycle expertise in its development. Focus groups can be beneficial, but they are neither consultation nor are they expert input. In the face of increasing motorcycling participation, the TAC’s motorcycle safety strategy cannot hope to achieve its goal of a significant reduction in motorcycle trauma nor the TAC’s own goal of reducing motorcycle injury-related

costs, and I will demonstrate that. The TAC circularly references its own internal data that supports its predominantly one-dimensional speed-centred approach. The TAC's road safety department has been shown to employ marketing-based philosophies and principles, again predominantly focused on one message. I would ask the parliamentary Road Safety Committee to weigh up whether a one-dimensional approach and indeed whether the marketing principles in general should have such a dominant part of that approach and whether that should have any place in a sophisticated and complex subject as road safety.

The 'Reconstruction' ad and its underlying principles have been shown to be littered with flaws and inconsistencies, and they directly point back to the flaws and issues within the processes and the methodologies that generated that ad. If the status quo were to remain, we will expect more of the same into the future, but the status quo, in my view and the VMC's view, is unacceptable with respect to motorcycle accident prevention. I think that is critical. We need to be focusing on reducing accidents. For the general promotion of safe motorcycling the status quo has to change. So the VMC calls for an inquiry into the TAC's approach to road safety, its philosophies, its methodologies and strategies and the legislation that guides it. I think the TAC has been around now serving the community for some 25 years, so it might be time to have a look and see how it is going – just my suggestion. The VMC calls for genuine independent motorcycling expertise to be involved in the planning and development of future public road safety campaigns. We call for the TAC to genuinely consult with riders and going forward to adopt principles, approaches, strategies and philosophies consistent with good safe motorcycling. Of course, we would welcome the opportunity to be involved in that future for genuine safe motorcycling education campaigns.

I would like to talk a little about the motorcycle safety strategy. They have a genuine goal to reduce road trauma, the goal is to promote road safety, but there have been many clear statements from the TAC – media releases and whatnot – that the costs of motorcycle road trauma are rising, and these costs are driving the TAC's strategy. The motorcycle safety strategy cannot be found on their website, but it came to light in a 2010 road safety conference. The five key planks to that road safety strategy – no. 1: reduce the number of motorcycle and pillion deaths; it's a great goal; no. 2: promote protective gear; 3: educate riders about the impact of speed on vulnerable road users; 4: promote their website; and 5: reduce self-reported speeding behaviour. They are the five key planks of their motorcycle safety strategy. What do you notice about those five? They are all focused on the rider. It is doubtful that the first, fourth and fifth can actually reduce motorcycle trauma in any way since none of them are fundamentally dealing with any road trauma root cause. So 60 per cent of the strategy is focused on corporate goals or not actually focused on motorcycle road trauma. The second point is about gear. Gear is good; I support the right for riders to choose to wear gear, but gear is about injury mitigation, not about accident prevention. Point 3 is about speed – reducing speed, and again that is theoretically about reducing the extent of injury; it is not necessarily about accident prevention. We will talk about that in a moment. So precisely zero per cent of their motorcycle safety strategy is focused on accident prevention. In other words, there is nothing in the strategy about stopping riders from crashing or, importantly, from being crashed into. That is a significant oversight, in my view. If there is no focus on fundamentally reducing the number of crashes, then how can there be any expectation of a genuine reduction in powered two-wheeler road trauma? That is a really important question, given that there is the strong growth in motorcycling being experienced. If everything were to remain exactly the same, the number of accidents would have to grow. The TAC realises this, but I do not think it has acknowledged the broader implication. The TAC will argue that its strategy is sound because it is in keeping with the safe system – the Vision Zero safe system, in particular the pillar of safe speed, but in motorcycling circles it is well understood that it is safe roads, not safe speeds, that has the biggest positive impact on motorcycle safety. In fact, of the four it is safe roads, safe people in terms of training skills, safe vehicles and then safe speed. In a word, the safety strategy is flawed, but it makes perfect sense in light of the TAC's philosophies, the bottom line business and the strategy.

It is worth having a look at the conclusions of the motorcycle safety strategy. That first sentence is a real doozy:

The short to medium-term indicators are promising in an environment where other activities are taking place within the riding community to increase rider safety.

So someone, somewhere is doing something to help motorcycle safety, and we are going to take advantage of that! Who are these people? Where are they? What are they doing? I would like to talk to them. Then they go

on to say:

However the long-term, the upward pressure on increasing numbers of riders poses a financial implication for the TAC's business ...

They go on to say:

The TAC will continue to invest heavily in strategies ...

They will:

...increase the uptake of protective clothing and reduce the incidence of self-reported speeding behaviour to assist in reducing the level of trauma and the costs to business.

They are focused on gear, surveys and reduced claims. The elephant in the room is there is no clear genuine focus on accident prevention there. The strategy is about 10 pages. If you stand back and have a look as a whole, it is pretty clear that the TAC does not understand motorcycling from a rider's point of view. I think that is fairly clear. It is not surprising, given their sources of data: their own internal claims data, their own generated surveys and the third party report on how often, where and how much people online are talking about the TAC. It appears that the TAC has not considered reputable international and/or local research in the development of its motorcycle safety strategy, and I think the committee should ask it why.

The bottom line is over the last decade – it is unfortunate – 1000 riders a year have been seriously injured. That number has stayed fairly constant. The number of registrations has nearly doubled, which in real terms means a reduction in the injury rate. If serious injuries have remained broadly steady, then it must be the medical and payout costs that have gone up. Recently in an earlier media release Janet Dore claimed that motorcycle serious injuries had gone up. In light of that observation, a strategy focused on injury mitigation makes sense, but is not a fundamental road safety strategy. If the TAC is to register a cost reduction, the serious injury count needs to decrease significantly in the face of its rising participation because it is the injuries that cost the most. That is a tall order from a flawed strategy, but the TAC believes that the answer lies in speed and almost in speed alone. I will go on the record – they have put some other campaigns out there – the 'Vice Versa' campaign, which was driven by VMAC, and the protective gear campaigns, but still the primary focus of the TAC is about speed.

The focus on speed is interesting because they reference data that shows that small speed reductions has a very limited effect on the probability of injury, as Rob just alluded to, and I will talk about that in a moment. So it seems that the left hand does not know what the right hand is doing and there is a disconnect going on here. Let us look at that disconnect. This graph appears on the Spokes website. On the vertical axis you can essentially describe that as 'probability of fatality'. On the bottom axis there is the impact speed. This graph was sourced from a 1975 study out of the United States. What it highlights though is that a crash impact at all legal and near legal urban speeds has a significant likelihood of fatality or road trauma. That is a fact that riders carry with them any time they are on the bike. A strategy focused on small speed reductions and speed limits, though it is right to do that in terms of the legal constructs that we live within, cannot hope to significantly reduce trauma and its associated costs. Let us have a look. Here is the graph again. At 68 kilometres an hour, if a rider has an impact at that speed, they have got about a 90 per cent chance of fatality. The 'Reconstruction' ad argues that if you were to drive at the legal speed limit of 60 kilometres an hour, physics will look after you; you will not die, but this graph tells you that you have an 82 to 83 per cent chance. So the whole 'Reconstruction' ad – I do not know what the exact cost was, but I have heard \$1 million has been quoted. So \$1 million has been spent trying to argue, trying to convince riders, for a 7 to 8 per cent reduction in their probability of a fatality. That sounds like a waste of money to me. Have a look at the 100 kilometre an hour – this is a typical freeway speed. If you have an impact at that speed, there is about 100 per cent chance. That is a pretty high chance of a fatality at an impact at that speed. So travelling at 105 or travelling at 95 makes no real difference, and travelling at 95 poses a lot more risks to a rider because the traffic encroaches around them, but that is what we are encouraged to do. That is at odds with genuine safe motorcycling principles.

But they will argue that 30 per cent of fatalities involve inappropriate or excessive speeds, and I would like to

know what is the proportional split. How do you define what is inappropriate? And what is the low-hanging fruit in that other 70 per cent that could be focused on? The figure is based on Victoria Police crash accident reports, which is interesting because at this committee Victoria Police confirmed that the traffic incident report form does not provide much context around the involvement of speed. It is a tick box, and the police officer on the scene, if it is in their view that speed was a contributing factor, then they will tick the box. It is not quite scientific. Since the MCIU, the Major Crash Investigation Unit, and the coroner rarely investigate motorcycle crashes, the key speed data driving the TAC's strategy primarily boils down to a collection of unscientific opinion. I am not casting aspersions on the good work of the police or the police officers, but they are human, and if they do not have the scientific training, then their view of whether speed was involved is an opinion. We need to have some genuine in-depth crash data from which to determine true root causes, otherwise we are wasting community money and time. Irrespective of that, the TAC will argue, 'All right, fine, but slowing down increases the available time to react to events', and this sounds quite reasonable, though we are only talking about fractions of a second, and in the 'Reconstruction' ad the difference between 68 kilometres an hour and 60 kilometres an hour over the distance shown is 0.3 seconds. The whole ad campaign hangs on the difference of 0.3 seconds, which I hope to have the time to explore in just a moment. So I would ask them where is the evidence. Where is the crash analysis showing that these small increments are materially significant to reducing motorcycle road trauma?

Just to summarise the strategy – the five key planks do not anything for making the road intrinsically safer, they are focused on injury mitigation, not prevention, it is unlikely to achieve its stated objectives, it fails to recognise the truth in one of their own key references and at its heart it has opinion-based, unscientific data. The strategy should, in my view and the view of the VMC, actively encourage riders to be better riders, actively promote defensive road craft, recognise the role that improved roads and road design can play in the reduction of motorcycle trauma, recognise the role that other road users play in road trauma, recognise the role that the riding community can play in fostering rider improvements and, above all else, it should actually encourage cooperation between all users on the roads. We all share the roads. We all have a duty of care towards each other. In my view the TAC's strategy requires a significant shift.

Just a quick postscript – they recently re-released and re-launched their Ride Smart CD-ROM as an online-based format. I think you would have to say it has not been very successful. The CD-ROM was not very successful – 80 completions a year, with some 20 000 new licences each year. Sixteen per cent of riders who got their Ls took up the opportunity to take up the CD-ROM, and 80 a year completed them. So, rather than consider that the contents were flawed, they decided to repackage and freshen up the program. It is a very marketing approach. Some of the information is genuinely valuable, and you can see the hand of contributing motorcyclists, but I am not sure they would have all signed off on the final product. The majority of the material is completely couched in terms of the TAC's key speed paradigm. Ross Daws – if he is in the room; he is at the back of the room, thank you, Ross – editor of *Motorcycling Review*, made some valuable observations about the online program on his internet blog. I encourage the committee to look it up – twowheelthrive.blogspot.com. He highlighted the total credibility failure evident with the very first exercise. His correct answer complied with the program but was utterly inconsistent with basic motorcycle fundamentals. If you lose your credibility in the very first exercise, I think you are going to lose riders generally. I think that explains the low completion rate – an evident lack of credibility and a broken record of a repeated anti-speeding message.

The intent of the Ride Smart program we absolutely applaud, but we deplore that fundamental safe motorcycling principles have been held to ransom by the anti-speeding message. I support the claims, both calls just made momentarily earlier – the committee should ask why the TAC, on the one hand, strongly argues against training and skills development as a method to win road trauma reductions but, on the other hand, completely advocates this exact philosophy in its Ride Smart program, and there is the quote that was read out earlier. In the interests of time I will skip over whether the TAC understands riders. Principally, there are four sources of information that the TAC uses to understand riders focus groups: its tracker survey, surveys at events and its client data. What they understand about motorcyclists is from the motorcyclists who are willing to talk to the TAC. The motorcycling demographic is extremely broad. That is something I will let the committee explore. If nothing changes about the TAC approach into the future, if it does not include motorcycle expertise in its strategy and campaigns, if it does not support the active development of better-skilled riders and more aware drivers, if it does not focus on motorcycle-friendly roads and road design, if it does not broaden its sources of data, if does not employ truly independent methods of data gathering and if it

continues to focus primarily on speed, we will continue to get more of the same. The ‘Reconstruction’ ad is a clear example of that. Let us take a look.

Here is what the TAC has said:

More than one in five motorcycle crashes involved in a multivehicle crash was one of the vehicles is turning. In 80 per cent of the fatal crashes a turning vehicle was the car or truck. The configuration of the crash in the commercial represents a typical crash type.

So this is actually a great start. They have taken a typical crash type, and they are going to make an ad about it and educate the public about that scenario. These comments were taken from the TAC’s response to the Advertising Standards Board, complaint 170–12. It is actually consistent with many of the TAC’s emails, press releases and other public utterances in relation to the negative outpouring that ‘Reconstruction’ generated. So at face value the TAC has started from a genuine desire to reduce motorcycle road trauma targeting a typical crash scenario and, presumably, to raise public awareness and reduce its incidence, but that got completely hijacked by its philosophy. Instead they created a highly contrived advert, which did not include any genuine motorcycle expertise, did not deal with the typical aspects of the crash – and recall that 80 per cent of the fault of that crash type is the driver’s. It misrepresented the crash cause, misrepresented the law in supporting its ad and, in turn, vilified motorcyclists and absolved drivers. It was mostly at odds with physics as well. That is really interesting because their ad appeals entirely to physics for its veracity, and there are many physics failings. It also gave a confusing message because if that exact scenario were replayed in a 70-kilometre-an-hour zone with a 68-kilometre-an-hour motorcyclist and a car entering from a side road and that rider died, how has the message in that advert helped that rider, because he was actually less than the legal speed. Who is to blame in that scenario too? It has one other fundamental critical flaw. The driver failed to see the rider in both speed scenarios, despite excess speed being blamed for the visual failure in the first scenario. That reason in particular is why motorcyclists have turned off.

The TAC has gone to great lengths in its public responses, emails and on the Spokes website, to absolve the driver of any fault, including referencing and misrepresenting case law. To their credit, they have removed the references to the case law, but I still think it is important that we talk about it today. The only conclusion that I can draw is that the TAC required the viewer to blame the rider, hence, intentionally or unintentionally, vilifying riders. The response to the negativity has not been surprising. They have defended their ad, rather than admit they have made an error. They referenced their own survey data and argued that their processes are sound. They point to positive overseas experience as proof that the ad is well made. Just on that, I have actually looked at some of the overseas experience, and the key take-home message that some overseas motorcyclists have taken from their ad is to watch out for drivers. That is not the fundamental message of the ad. They refer to negative commentary as proof that the ad has been noted and has generated a healthy level of discourse. The ‘Reconstruction’ ad had potential to be a positive road safety message. Instead it has done harm to rider safety and the image of motorcyclists. One of the take-home messages that was put to me not that long ago is: you sped, you’re dead, your fault. That is not a great safety message that I would like my tax dollars to be paying for. The ad has failed to engage the bulk of riders positively, and it has reminded that drivers will do life threatening things, so that is a positive of the ad, but it has failed to successfully deliver its key message. The following analysis will show that and show one inescapable conclusion: the philosophies and strategies behind the ad’s planning and production were flawed, and therefore the whole process must be reviewed and revised if not to repeat these errors into the future. If their motorcycling strategy is flawed and their understanding of riders is flawed, then the product that they are likely to produce is flawed. With all the best intentions at their heart driving the program, it still does not change the fact that it is flawed.

I presume everyone has seen the ad. The rider travels along at 68 kilometres an hour, he has a crash into a car that emerged from a side street, and the speed of the rider is clearly implicated as the cause of the crash. The scenario is re-run with the rider at 60 kilometres an hour, and the rider avoids the crash. So the key message is: do not speed and you will stay alive. At first blush that sounds like a reasonable safety message, but in truth the ad clearly demonstrates how completely the TAC processes have been captured by its anti-speeding agenda. The car driver is typically at fault in this crash scenario, but you cannot create an anti-speeding message about a car emerging from a stop sign onto a main road. By not focusing on that car, they have created an ad that cannot possibly hope to reduce motorcycle road trauma. The ad instead focuses on the rider error, a lot of low-level speeding, and excuses the driver error of failing to give way. So they focus on the

non-typical to be able to create a message. There is no clearer demonstration of just how bound to that single message that they are than this actual ad. They do seem to be more interested in gaining acceptance of a political message than in delivering messages genuinely focused on road safety. Here is a comment:

The TAC's vision is to make speeding socially unacceptable in the Victorian community just as we have with drink driving.

One of the fundamental differences is that drink driving is a root cause of crashes. We have heard the message, we have taken it on board, we understand it, and now, I think, routinely Victoria Police is finding that 0.1 per cent of breathalysed drivers are actually over the limit. From that point of view it has been an amazing success story, but it does not matter how often they tell the message, low-level speeding is not a fundamental root cause in crashes.

I want to focus on the legal case. It released a bunch of supportive information, and there are volumes of it, and they referenced case law to bolster the veracity of its ad and support its key contention that the speeding rider was at fault and the driver who came through the stop sign was not at fault. You can look at that case law at that web address. I will just talk through the scenario. It is 1966. It is about midnight. We are in Geelong at about 12.00 a.m. and two civilian vehicles are travelling south, and there is an unmarked police car travelling east. The blue car is turning left, so it is slowing down to turn left into Skene Street, and the green car is overtaking the blue car. The speeds involved are quite interesting. The two cars are travelling at around about 15 miles per hour; the unmarked police car is travelling at 45 miles an hour, approaching an intersection. They did not have stop signs so the rule of the day was give way to the right. It was at night-time – quite dark, no lights, no street lighting, the police car had its lights dipped. So the very first time that the two vehicles noted where this speeding police car was, was when the police car was some 12 metres away. What do you think happened? There was a crash, and in that crash the police officer charged both drivers for failing to give way to the right. That is the case that the TAC has referenced in justifying its TAC ad. Just as an interesting postscript – if you are approaching an intersection that is uncontrolled at about 50 miles per hour, are you driving in a manner that you would be able to give way to the right, if you should need to? Anyway, that is just my personal comment on record. We asked John Voyage, principal of Maurice Blackburn lawyers, a towering expert in this area – we asked his opinion of what he thought about the legal case that had been referenced, and I would just like to enter his full opinion on record:

We have been unable to find a single case which has used this as a precedent. The legal unimportance of this case is apparently to the point where it would only be the law if that identical set of facts were to exist again, but it is not a general principle of law. It did not involve a stop sign or our present road rules, and yet it has been relied upon by the TAC rather than the overarching 'stop means give way to everyone'. In my opinion —

in the opinion of a recognised expert, in his opinion —

there is no justification for the TAC's assertion that the driver who committed a SMIDSY – a sorry, mate, I didn't see you – there is no justification that he was not culpable.

I think that is a pretty powerful statement. So the claimed case law that apparently exonerated their driver does not hold up. And here they say:

The car driver is unable to see the oncoming motorcyclist —

this is in their ad —

which is travelling at a speed of 68 kilometres an hour and therefore out of the field of vision of the car driver.

They are arguing that the speed of the motorcyclist made that motorcyclist invisible to the driver in their ad, but the actual ruling of that case does not support the contention at all. The judge makes some comments effectively saying that when the vehicle on the right was first visible the cars are in or close to its path and if they had stopped or slowed down, they would have slowed down or stopped immediately in the path of the

oncoming police car and thus not give way but, on the contrary, cause the collision. The case law does not stack up, it does not support it and, rightfully, the TAC removed it. The only reasonable conclusion then is that the TAC chose to misrepresent the case law in order to strengthen its arguments against the rider. They removed the reference on their website, but we felt it was important enough to make mention of it here to just demonstrate how far the organisation did go to support its ad.

One last little section before we launch into the sexy pictures and the faults and flaws of the ad. How am I doing for time?

Ms JENKINS — The committee has quite a number of questions, Rob, you have probably got 5 minutes. Okay.

Mr SALVATORE — The committee will need to review.

Ms JENKINS — Yes.

Mr SALVATORE — Essentially the TAC references a 2002–03 study from Victoria Police. It was their best go at doing an in-depth crash study. There are many flaws in that study, and the results and the outcomes of that study are, not surprisingly, related to policing. I would invite the committee to have a closer look at that, if I have only got a few moments remaining.

The advert demonstrates that the car has not failed to stop; does not fail to give way; the car driver is stationary at the stop sign, indicating right and looking for oncoming traffic. The driver then turns right after looking. The car driver is unable to see the oncoming motorcyclist, who is travelling at speed and therefore out of the field of vision of the car driver. The driver takes all required steps to look for other road users before proceeding into the turn.

This is the view the commercial shows from 49 metres out. There is the car. There is no clear line of sight between the car and the motorcycle rider. I just want to highlight this motor vehicle on the left. We will use him as a reference point. This is the wide-out view at 49 metres. There is the car proceeding into the intersection. There is no line of sight between the car and the motorcycle. There is a ute with a trailer. Despite the TAC's assertions that the driver cannot see the bike due to its speed, in reality the driver cannot see the bike due to the parked vehicle. All the supportive material the TAC has been releasing is worth questioning. As you can see, if you have a look at the car, it is proceeding to move into the intersection despite not being able to see. Maybe it is trying to creep around and have a look around the obstacle. Here it is. We think that, since the reference car is no longer in the frame, the motorcycle has moved about 10 metres further down the road, so that car is about 39 metres away, and the line of sight is just opening up. But now the motorcycle is 5 metres away and that driver – it is hard to tell in silhouette – is still looking forward out his front window, out of his windscreen. He is not looking at the bike. Look how far he has proceeded into the intersection. You can see the white line there, and I highlight that it is a perfectly clear day. There was perfect vision, but if you do not look – and even if you look, if you do not see – you are not going to respond. Now the rider is much closer and the driver has turned his head, but you will see that he is still proceeding forward. This is the view at 68 kilometres, a clear line of sight – the driver is clearly in the line of sight. This is the view at 60 kilometres – more than enough vision there, but the driver still proceeds forward. The key contention of the ad, demonstrably from its own ad, is not supported. At 60 kilometres an hour the driver is still proceeding through.

There was a lot of contention amongst riders about whether the front brake was used, and the TAC has argued that it was. I will clearly demonstrate that in their own ad there was no braking. The rider has got the brakes covered here, but if you have a look at the forks, there is no compression. If there is no compression, there is no front braking. This is moments before the impact, so this is when the rider should be well and truly focused on trying to avoid the collision. In what I call the survival scene – the 60-kilometre-an-hour scenario – the rider scoots behind the car, and if we have a close look, he has not got the brakes covered at all and his forks show no compression. It is exactly the same amount of compression in the 68-kilometre-an-hour scenario. Despite all the references asserting that the rider in the ad used the front brake, it is clearly not. It just goes to highlight how contrived the ad actually is to create a perception and a particular message. I will skip the skidding. I just want to show one last thing that I think is really important. The detail about the physics is

worth having a read of, and I hope it will not put the committee to sleep, but I will not mention it at all here. There are many faults and flaws that are worth investigating a lot closer. One of the key physics flaws is in the actual crash itself. The crash depiction is pretty unreasonable. Here are some genuine crash tests. You will see that the front end of the motorcycle collapses, the forks are bent, the car actually recoils, none of the riders has catapulted, none of the motorcycles has catapulted. So, despite the assertions that the TAC has chosen a typical crash scenario and demonstrated and depicted a typical crash response, there is nothing actually typical about the climactic moment in that commercial. Yes, I winced too, Andrew, when I saw that particular crash video. Face first into the car is not – yes. Look, the forks are perfectly straight, and the front wheel is not buckled in any way. The last thing – a little kicker, I think, a little irony – one of the failings of the ad is about vision; about the driver seeing the motorcyclist. One of the key ironies is that the car that was used in this ad was a Honda Accord, and I am not sure whether it was a Euro or a standard model, but the RACV's forward visibility rating gave that car a big thumbs down. Have a look. The sedan version got two stars out of five; the Honda Accord got one star out of five.

If we had any doubt at all – this is in TAC's own data – in those 25 years the number of motorcycles has tripled, and there is a clear reduction in the fatalities. There are many complex reasons why that is, but I just think it was worth highlighting just before we finish the positive message that motorcycling is getting safer. I thank the committee for its time.

The CHAIR — Thanks very much, Rob. Time is on the move at the moment. We might commence with the actual showing of the advertisement now, following which we will ask a few questions.

Video shown.

The CHAIR — Thank you, Kylie. My colleagues have a number of questions. Mr Languiller, if you would like to put the first question, please.

Mr LANGUILLER — Can I thank the Victorian Motorcycle Council for its submissions. The first question that I wish to submit to you is: how would you have improved this advertisement but still kept the same message – namely, reduced speed?

Mr SALVATORE — As a rider, reducing speed is only one strategy that is available. In fact when you look at the physics involved in that ad, if the 60-kilometre-an-hour rider entered the same scenario and that car delayed its entrance by only half a second, the exact same crash would have occurred. So the speed message is not the only message that should be delivered. If the rider had anticipated, covered the brakes, reduced his reaction time, assessed the hazards in the environment, he would have been far more prepared to deal with that car coming out. I cannot answer that question strictly without saying the ad needs to be redesigned.

Mr SMITH — One of the most common methods used in rider training to illustrate the outcomes of excessive or inappropriate speed is with a braking demonstration that shows the differences between braking at different speeds and how distance increases the faster you go. This is something that is being used again and again and is used in just about – I think I can safely say – all rider training. It is a message that can be repeated successfully; riders get it. A conversation with riders would probably have elicited that information, and it would have probably driven home that that is the effect: it takes longer to stop the faster you go. Riders are not dumb; they would have got that.

Mr TILLEY — Thanks, gentlemen. It will take us a little while to digest that evidence that you have given us today. What I want to talk about and go into some conversation about is the construction of that advertisement. Firstly, are you aware that there was any representative group from the VMC that was involved in the construction of that advertisement?

Mr BAULCH — Certainly we are not aware of anyone from the Victorian Motorcycle Council being involved at any stage, whether it be in the campaign creative stage, whether it be in the filming, whether it be in the editing or whether it be in the approval of the finished product, although it has been claimed that some of us were given a previewing and had in fact endorsed it. But I can assure this committee that that did not happen; we did not get a previewing, and we certainly did not endorse it.

Mr TILLEY — In view of then probably getting an opportunity to preview the advertisement before it went to the screens of Victoria – hypothetically, I suggest that if you had been involved in the construct of that advertisement or that campaign, particularly, what would have been your primary concerns, having now seen that advertisement?

Mr BAULCH — I will start the answering by saying I think Rob Salvatore has highlighted a multitude of concerns that we would have. The first concern that I will air is the fact that we believe that road safety is the responsibility of all road users. It is a shared responsibility. That ad failed from the outset because it set out to do one thing, and that was blame the motorcyclist.

Mr TILLEY — But would it be fair to say – and getting some balance here – that that is the view of the VMC and the bodies that you represent?

Mr SALVATORE — It is also the view of some eminent writers too. I spoke with Professor Marcus Wigan, and when he saw that ad the very first time he was disheartened at just how misrepresenting it was. I had a conversation with him about it, and his focus, being a physics PhD, helped me explore some of the detail in that ad. It is not just passionate riders; it is quite intelligent people as well.

Mr SMITH — Other intelligent people!

Mr SALVATORE — Thank you for the correction. I would like to put it on record that motorcyclists are intelligent.

Mr SMITH — Remember I just said they are not dumb.

Mr ELSBURY — For the record I have owned five motorcycles and ridden both for work and employment.

The CHAIR — Rob meant to say ‘very intelligent’!

Mr SMITH — If I could just add to the original comment – I am conscious of the time – that there seems to me to be two issues that stand out to me. One is that this ad represents another that presents motorcyclists as being largely irresponsible. It is rare that we see a representation of a rider who is doing the right thing. This leads, through the court of public opinion, to people believing that motorcyclists are always the architects of their own demise, and this is patently not true, especially in this case. The other issue is that we have heard that there has been case law cited. I am not an expert on law, but I know that there is an expert on law, traffic law, here today – that is, Mr John Voyage of Maurice Blackburn lawyers, who wrote the traffic law manual. So it is important to recognise his contribution. For me there is a bigger issue. There is the use of the case law that misrepresents the situation, and there is an oversight in that the traffic law clearly identifies that in this situation, just as we have been shown, at 60 or at 68 the driver failed to give way. An 8-kilometre-an-hour infringement earns you one point. The law clearly, through assigning three points for failure to give way, finds that failure to give way in the hierarchy of blame is a far more serious offence, but that has been completely overlooked, and what it does is just go to a continuing misrepresentation of riders being the architects of their own demise. This has to stop because at the moment we know that the general view of the public is one of fear, of repulsion; they revile motorcyclists, and only in very recent times have I heard members of the public talking about motorcyclists, and they have clearly seen these ads and decided, through no actual experience, that motorcyclists are always at fault. That has to come from somewhere, and it is not just from seeing riders on the road because the majority of riders do not ride in this irresponsible manner. We are always being told that this represents a minority. If it represents a minority, then say so; do not present rhetoric that argues or presents through imagery motorcyclists as being irresponsible. By using the law in this way, I think, the TAC has stepped over a line in the sand.

Mr ELSBURY — Is there anything the TAC can improve in the way it gets the motorcycle community involved in road safety?

Mr SMITH — I think we have always been as a community interested in road safety. Motorcyclists are unique in the way that they are trained. As an example, in all training that we do in order to get a licence we

go through a training program, and part of that would include things like doing an emergency stop, something that drivers rarely do in their training. We buy into it, because when we take up motorcycling none of us takes up motorcycling in order to be safer. We understand that there are risks, and we are therefore receptive to things that will reduce risks, and in that regard we are very knowledgeable on how to reduce risks, and we would be willing to communicate and consult at any level, at any time, in any meaningful way that went beyond tokenism.

Mr ELSBURY — Car drivers speed, and we see many commercials from the TAC talking about the dangers of driving cars too fast. Certainly through observation I have seen truck drivers speed. It is amazing; you would think you have got your handbrake on some days going down the freeway. I am going to get out here on a limb and say some motorcyclists do speed.

Mr SMITH — Acknowledged.

Mr ELSBURY — I am trying to understand why the concept of a speeding motorcyclist contributing to an incident which ends in them being killed is causing such outrage when you have got the other commercials that show car drivers and all their passengers being wiped out because of speed, and yet we have got this uproar when it is a motorcyclist.

Mr SALVATORE — The low-level speeding here has been implicated – the rider was not visible because of the low-level speeding. The laws say you should not speed, okay, so we will take it as granted, but they are trying to portray that that was the key root cause of why this rider in their ad has died.

Mr ELSBURY — But drivers stuff up.

Mr SALVATORE — Yes.

Mr ELSBURY — And you say yourself you have to try and make it so that the road is safer for yourself, so you use all your road craft skills —

Mr SALVATORE — Yes.

Mr ELSBURY — You position, you do everything right, yet if you are speeding, you have still got that disadvantage.

Mr SALVATORE — Yes. And you could have couched the ad with a speeding message but with also some key essential defensive road craft messages – anticipate the hazard, cover your brakes, have an escape route available, be aware of your surroundings. There are many other messages, and each one of those messages will have been able to be carried by the rider into all of their riding environments, not just the 60-kilometre-an-hour one. For example, the other ‘Reconstruction’ ad where the motor car mows down an unfortunate pedestrian – I have the same physics issues with that ad as well, but I am not a motor vehicle activist or a pedestrian one, but if you want, I could break down that ad as well! I am quite passionate about it. Sure, we all need to live within the laws, but I think they were drawing a very long bow here.

Mr SMITH — If I could just add one very quick thing here – motorcyclists are not against being shown what happens if you speed because we understand it. In fact, we understand it better because we are so vulnerable. The way that ad could have been couched better would have been very simple with a different voiceover that recognised the component of the fault of the driver, it would have still had the same message; all it really needed to say is something like ‘Despite the driver failing to give way and seeing the rider, here’s what you could have done’. It would then have recognised that. Rather saying to the public at large, ‘Here’s a motorcyclist who is speeding and, guess what, he’s going to die’, all it needed to do was present a more even-handed approach. We would have said, ‘Yeah, you know, that’s a pretty good ad’, but it did not.

Mr PERERA — Thank you very much for your long presentation.

Mr SALVATORE — Sorry about that.

Mr PERERA — No, that is okay; that is fine. We understand your points. However, on the committee's recent trip overseas at least two motorcyclists commented on the TAC advertisement and indicated they, no. 1, liked it and, no. 2, wished similar advertisements would be shown in their jurisdiction. How would you respond to this?

Mr SALVATORE — I have no doubt there are riders who actually enjoy that ad – the slickness of the ad, the way it is created; it is quite an impressive piece of film media, but I can tell you that in my experience that is the minority of motorcycles, not the majority. I would have to ask them: what was their takeout message from the ad? In my experience on international forums that I have explored, it is about watching out for the car, not taking the message that they should slow down. Yes, it is a great piece of work; it deserves awards from just the vision point of view, but I do not think that that view is the majority view.

Mr PERERA — My understanding was they believe it was hard-hitting so it is cutting through.

Mr SALVATORE — Their own reference shows that at 30 kilometres an hour, I think, 25 per cent are fatalities. That ad says, 'Sorry, bud, at 30 kilometres an hour you are going to die'. It is contrived ad, and if you do not think through the multiple levels that are there, if you just take it at face value, which I suspect most of the community would, you will just take it and buy the message, but I cannot do that.

Mr SMITH — The other thing, from the point of view of overseas viewers, who do not get to see ads of that graphic nature, where one of their own number dies, it will have an impact because they are not used to it. We, on the other hand, in Victoria see the shock and gore every time it happens. But for them they go, 'Wow'; they have not seen that before. But I would have been interested to know what was the exact takeout message that they took. That would have been worth exploring. Yes, it is hard-hitting; of course it is going to be hard-hitting, and they would recognise that, but what was the message and what would they do as a result of seeing it? That is the cornerstone of that.

The CHAIR — All right. Gentlemen, we have utilised the time that was set aside for your presentation today. Thank you very much for it. A hard copy will be available to the committee staff. We do appreciate your time in coming along and setting the forum a constructive exchange with our next witnesses. We will adjourn for 15 minutes now and resume with the representatives from the TAC. Thank you.

Mr BAULCH — Thank you, Mr Chairman. On behalf of the Victorian Motorcycle Council, we thank you for this opportunity. In closing I would just leave you with one last question: if the TAC is genuinely focussed on improving road safety and reducing motorcycle road trauma, why does it, through its Spokes website and links to the Crashlab website, promote the use of listed motorcycle helmets which may not comply with the required Australian standard?

The CHAIR — Thank you.

Witnesses withdrew.