

FORUM OUTCOMES



24 February 2015

Forum on AS/NZS 1698: 2006 *Protective helmets for vehicle users*

Summary

Standards Australia held an open forum on Thursday 19 February 2015 regarding motorcycle helmet standards and regulation in Australia.

Present at the forum was a broad range of stakeholders from government, industry, consumer and user groups, importers/exporters, testing and certification bodies, manufacturers and regulatory bodies.

The purpose of the forum was to engage stakeholders in a comprehensive conversation highlighting the current concerns with motorcycle helmet standards, regulation, and certification, and working towards finding an acceptable solution for industry, consumers, regulators and government authorities.

Need for harmonisation of regulation

Dr Bronwyn Evans, Chief Executive Officer of Standards Australia, opened the forum by welcoming all stakeholders present.

She said Standards Australia supported having a standard for motorcycle helmets, so long as this was the best way forward for Australia. She also applauded the continuing efforts of Standards Australia's Technical Committee CS-076 *Protective helmets for vehicle users*.

Dr Evans said the forum would focus on the issues of harmonising regulation surrounding the supply and use of motorcycle helmets across all states and territories and the good use of technical standards within the framework. She said there is no compelling reason why a motorcycle rider crossing state or territory lines should have to stop and change helmets to comply with different regulation across states and territories.

Clarifying that Standards Australia was not in a position to make the rules on behalf of government, Dr Evans said Standards Australia was nonetheless keen to facilitate an open dialogue at both the federal and state/territory government levels to reduce ambiguity in this area.

Overview of Standards Australia's role

Adam Stingemore, General Manager of Stakeholder Engagement and Public Affairs, gave an overview of Standards Australia's role.

Highlighting that Standards Australia was an independent, non-government organisation focused on developing voluntary standards for the net benefit of Australia, Mr Stingemore clarified that Standards Australia was not involved in regulation, certification or auditing.

He also said Australian Standards were by themselves voluntary, but governments may make the decision to reference Australian Standards in regulation.

On the issue of harmonising regulation, Mr Stingemore said that there were first-principle issues that the governments of Australia needed to sort out. Standards Australia's objective was to work with all stakeholders towards one set of rules, developed through a proper process, to be used across all jurisdictions.

Forum participants then heard from guest speakers on the issues facing the motorcycle industry and community, and were given the opportunity to contribute to this discussion.

Review of the ACCC mandatory standard for the supply (sale) of helmets in Australia

Mr Simon Bell from the Australian Competition and Consumer Commission (ACCC) gave a presentation on the ACCC's role in regulation of motorcycle helmets.

He said the Australian Standard for helmets that had been made mandatory by the ACCC was AS 1698:1988. He clarified that this mandatory safety standard was for the supply of helmets, or what could be legally sold in Australia, but did not pertain to the use of helmets.

He acknowledged that the regulation referred to a superseded Australian Standard but due to Commonwealth laws, a safety standard by the ACCC cannot be automatically changed when the relevant Australian Standard is updated.

The ACCC has been conducting a review of the mandatory standard, and had submitted three options to Minister Bruce Billson for consideration.

These were:

- (i) **To repeal the mandatory safety standard and rely on existing provisions of Australian Consumer Law.** This might remove an unnecessary layer of regulation, and the ACCC can still continue to monitor the market for safe goods. Removing a specific safety standard for the supply of helmets but retaining laws that relate to use removes the situation where supply and use laws are out of step with each other and should reduce confusion.
- (ii) **To remake the mandatory safety standard allowing the supply of helmets which comply with AS/NZS 1698:2006 and certain international standards.** This might potentially increase the range of helmets for sale in Australia, but the efficacy of international standards would need to be assessed. This option requires alignment between supply and use laws. If this option was selected now, motorcyclists would be able to purchase helmets that claim to meet certain international standards but they would not

be able to legally wear them, unless the helmet met the UN/ECE 22.05 regulation and the motorcyclist was riding in Queensland.

- (iii) **To remake the mandatory safety standard referencing the most recent version of AS/NZS 1698.** This option would be closest to the status quo, but would recreate circumstances where supply and use laws could again become out of step. Moreover, the recent regulatory changes to helmet use laws in Queensland meant that UN/ECE-compliant helmets could be legally worn in Queensland but not legally sold onshore, which is an issue for Australian suppliers.

Mr Bell said most motorcyclists were strongly in favour of the second option. Meanwhile, Minister Bruce Billson was still considering the options provided to him by the ACCC and was keen to hear the outcome from the forum.

Mr Bell urged state and territory agencies to work together and develop consistent use laws.

State regulatory perspectives

Mr Dan Leavy from the NSW Centre for Road Safety said the current road law in NSW specified that helmets must comply with AS 1698:1988 or AS/NZS 1698:2006.

All helmets must have a mark from a certifier confirming compliance with the Standard, and for helmets manufactured after 31 March 2011, the certifying organisation needed to be accredited by the Joint Accreditation System of Australia and New Zealand (JAS-ANZ).

Mr Leavy said a change was needed because AS 1698:1988 or AS/NZS 1698:2006 did not include explicit quality assurance requirements such as batch testing. In addition, the Centre for Road Safety had received feedback that the regulation was restrictive because consumers were denied a wider choice of helmets from overseas. The Centre for Road Safety had also encountered cases where riders were unable to get a Australian Standard-certified helmet that fit their heads, who then needed a medical exemption order to wear a larger helmet certified to another overseas standard.

Mr Leavy said that NSW is considering amending its definition of an approved motorcycle helmet to allow the international standard UN/ECE-22.05 as an alternative to AS/NZ 1698, and to allow certifying bodies be accredited to overseas organisations equivalent to JAS-ANZ.

He said NSW is also looking at developing a universal certification mark for all helmets that meet the revised definition. Once the NSW position was finalised, it would be presented for consideration nationally. He said this had been discussed with other jurisdictions that supported the principles of the NSW initiative.

He advised that a public discussion paper on the matter has been prepared, but its release was postponed till after this Forum and is now subject to restrictions caused by the pending NSW election.

The Queensland Department of Transport and Main Roads provided Standards Australia with a briefing paper which was read at the forum. The summary is as follows:

In April 2014, the Queensland Government released the Motorcycle Discussion Paper: Road Rules for Motorcycle Riders and accompanying online survey, covering the topics of lane filtering, motorcycle control and motorcycle helmets. The discussion paper was issued in response to frequent enquiries from the public on these topics. There were over 9000 responses to the online survey, with 74 percent of respondents supporting the recognition of overseas motorcycle helmet standards.

The decision to allow helmets complying with the United Nations Economic Commission for Europe (UN/ECE) 22.05 standard to be worn in Queensland was based on this community feedback, on comparison of the different helmet standards and on road safety research.

The amendment to s270 of the Queensland Road Rules recognising the UN/ECE 22.05 standard came into effect on 1 February 2015. This initiative will expand the range of helmets available to Queensland motorcycle riders and passengers, and will also meet the needs of persons with head sizes not suited to helmets approved under the Australia standards.

Riders have been advised that while Australian consumer law currently restricts the sale of helmets in Australia to those that comply with Australian standards, they will be able to legally buy helmets meeting the UN/ECE 22.05 standard through international online retailers or if they are travelling overseas. Helmets approved under the UN/ECE 22.05 standard are required to bear a label or mark indicating compliance with the standard. Queensland will monitor any road safety issues arising from the recognition of the UN/ECE 22.05 standard.

Ongoing work by Standards Australia Technical Committee CS-076

Dr Andrew McIntosh, Independent Chair of Standards Australia Technical Committee CS-076, gave an overview of the Committee's work. He first presented the forum with results of recent Australian research that showed AS/NZS 1698 compliant helmets are highly effective in preventing head injury, including intracranial injury.

The effectiveness is equal to that reported in other countries. On technical issues, the Committee was looking at including batch testing requirements in the Australian Standard, studying other helmet standards, updating test methods (such as the resistance to penetration test) and considering new technology in helmets. In addition, the Committee had considered non-technical issues such as the future of AS/NZS 1698:2006, the role of the Committee, and regulatory inconsistencies. AS/NZS 1698, although called up in regulation, is a voluntary standard.

Therefore, non-technical issues were referred back to the responsible organisations represented on the committee.

Dr McIntosh said the Committee had agreed that a normative appendix to the Standard on batch testing was important from a safety and conformity perspective, and had undertaken extensive work to amend the Standard accordingly from 2012 to 2014, before having the project cancelled by Standards Australia in November 2014. The batch testing appendix describes the testing provisions and associated sampling parameters in accordance with Standards Australia's Standardisation Guide 6.

He advised that CS-076 was still committed to reviewing the Standard; a project approved by Standards Australia and supported by many stakeholders.

Within that review, the approved project covered an evaluation of other helmet standards. Outcomes of that review might be an agreed position on UN/ECE 22.05 including whether to adopt UN/ECE 22.05 in full or in part and/or other standards. He cautioned that the UN/ECE Standard seemed targeted to urban riders only whereas Australia had a much wider range of on-road and off-road riders.

He called for the support of different organisations such as the ACCC, Austroads and Transport for NSW to work together to resolve the issues with the committee. He noted that the Standards Australia system provided a framework for stakeholder and public input.

Consumer perspective

Dr Raphael Gzrebieta, a member of CS-076 and the representative of the Consumers' Federation of Australia (CFA), shared his study on motorcycle helmets in Sydney, where he surveyed 245 Australian motorcyclists in the Sydney metropolitan area in October 2012. His results showed that there was a low prevalence of riders using non-standard helmets bought online, and a substantial proportion indicated a willingness to purchase motorcycle helmets online if the product was approved to the Australian Standard.

Perspectives from motorcycle rider associations

Dr Bruce Campbell of the Motorcycle Council of NSW and Guy Stanford, Chair of the Helmets Committee at the Australian Motorcycle Council, gave a joint presentation on the issues in the Australian helmet safety system and possible solutions.

They maintained that the product standard certification system was "broken" and the mandatory standard by the ACCC was ignored by all. Moreover, the Australian Standard was being used as a regulation that was policed by law enforcement officials. In addition, there was considerable mistrust over certification labels on helmets, and in some cases there were misleading labels that said products were certified by Standards Australia or to the wrong standard. They also said that the UN/ECE 22.05 standard had been adopted for use in over 50 countries and had been developed based on public health studies of helmeted crashed riders.

They called for a set of harmonised road rules across Australia, greater certainty over certification of helmets which should be verifiably compliant prior to sale, and for a mandatory standard that allowed safe helmets to be sold in stores in Australia.

Panel Discussion

An open panel discussion was held with all the speakers and forum participants were given a chance to ask questions. Discussion topics focused on:

- Considerations in adopting international/overseas standards and whether an Australian Standard was required;
- Ongoing government work in harmonisation and sharing of information across jurisdictions;
- Quality assurance tests and performance tests in the Australian Standard;

- Ambiguity and “over-policing” of certain aspects of helmets such as tinted visors and camera attachments;
- Further development of standards for helmets that are fit for use for off-road riders (such as quad bike helmets);
- A range of issues related to safety, challenges in application of the AS/NZS Standard, manufacturers’ test results, costs of helmets in Australia, and certification for helmets.

Next steps

There was broad agreement among the forum participants on the next steps arising from the forum.

1. Standards Australia would circulate the record of the outcomes of the forum to all participants.
2. Standards Australia would continue to encourage the federal and state governments to work together to establish a single uniform system for motorcycle helmet regulation in Australia.
3. Standards Australia will write to the following Ministers on the forum outcomes:
 - Hon Bruce Billson, Minister for Small Business
 - Hon Ian Macfarlane MP, Minister for Industry
 - Hon Warren Truss MP, Deputy Prime Minister and Minister for Infrastructure and Regional Development.
 - First Ministers of all States and Territories.

The letter to the Ministers will also recognise and support the continuation of the good work already being done by Austroads in this regard.

4. Standards Australia will also investigate some of the issues raised at the forum surrounding the potential misuse of its brand with regard to helmet certification.
5. Standards Australia will look to develop a document that sets out the regulatory approval, standards and certification processes for motorcycle helmets.
6. Standards Australia will look into setting up a formal liaison with the UNECE standards development process for motorcycle helmets.

Mr Richard Brooks, Chairman of Standards Australia, closed the forum by saying that Standards Australia would continue to engage the relevant stakeholders and decision makers to advance the discussions and work towards a harmonised set of rules.
