

EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 213

Issued by the Authority of the Minister for Competition Policy and Consumer Affairs

Trade Practices Act 1974

Trade Practices (Consumer Product Safety Standard) (Motor Vehicle Recovery Straps) Regulations 2010

Subsection 172(1) of the *Trade Practices Act 1974* (the Act) provides, in part, that the Governor-General may make regulations not inconsistent with the Act, prescribing all matters that are required or permitted by the Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Paragraph 65C(1)(a) of the Act provides that a corporation shall not, in trade or commerce, supply goods that are intended to be used, or are of a kind likely to be used, by a consumer, if there is a consumer product safety standard for those goods and they do not comply with that standard.

Subsection 65C(2) of the Act provides that a regulation may, in respect of goods of a particular kind, prescribe a consumer product safety standard consisting of such requirements as are reasonably necessary to prevent or reduce risk of injury to any person. These requirements may relate to, among other things, the markings, warnings or instructions to accompany goods.

The purpose of the *Trade Practices (Consumer Product Safety Standard) (Motor Vehicle Recovery Straps) Regulations 2010* is to introduce a safety standard for motor vehicle recovery straps to reduce the incidence of and potential for death and injuries to users of motor vehicle recovery straps, and to give effect to a decision by the Council of Australian Governments to introduce a national product safety regime which harmonises existing State and Territory requirements. The standard requires that motor vehicle recovery straps manufactured or imported after 1 October 2010 (and all recovery straps supplied after 1 January 2011) carry prominent labelling and warnings to promote safe usage of the product.

The Regulations give national coverage to regulatory requirements which have already been introduced in Queensland.

Details of the Regulations are in Attachment A.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. For the purposes of section 17 of that Act, full details of the consultation undertaken are incorporated in the Regulation Impact Statement which provides the justification for these Regulations and which is at Attachment B.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Details of the *Trade Practices (Consumer Product Safety Standard) (Motor Vehicle Recovery Straps) Regulations 2010*

Regulation 1 – Name of Regulations

This regulation provides that the name of the Regulations is the *Trade Practices (Consumer Product Safety Standard) (Motor Vehicle Recovery Straps) Regulations 2010*.

Regulation 2 – Commencement

This regulation provides that the Regulations commence on the day after they are registered.

Regulation 3 – Purpose

This regulation provides that the *Trade Practices (Consumer Product Safety Standard) (Motor Vehicle Recovery Straps) Regulations 2010* prescribe a consumer product safety standard for motor vehicle recovery straps.

Regulation 4 – Application

This regulation provides that the Regulations apply to motor vehicle recovery straps manufactured in or imported into Australia after 1 October 2010. The regulation also provides that after 1 January 2011, all motor vehicle recovery straps will need to comply with the safety standard, irrespective of when they were manufactured or imported. This will allow suppliers of motor vehicle recovery straps three months to dispose of recovery straps that have been manufactured or imported before 1 October 2010 and which do not carry the required labelling.

Regulation 5 – Definitions

This regulation defines the various terms used in the Regulations.

Regulation 6 – Packaging information

This regulation provides the requirements for labelling the packaging of motor vehicle recovery straps. The regulation requires that the packaging of motor vehicle recovery straps (or a label attached to the packaging) must display the same information as is currently required by section 1 of Schedule 5C of the Queensland *Fair Trading Regulation 2001*. Recovery straps which comply with the Queensland requirements will also comply with this regulation.

Regulation 7 – Information permanently fixed to strap

This regulation provides the requirements for labelling which must be permanently affixed to motor vehicle recovery straps, and requires that it must be clearly visible and legible when the recovery strap is being used. The regulation seeks to ensure that users of motor vehicle recovery straps are reminded of the dangers involved in misusing this product throughout its life span. The regulation requires that motor vehicle recovery straps must display the same information as is currently required by section 2 of Schedule 5C of the Queensland *Fair*

Trading Regulation 2001. Unlike the Queensland provisions, this regulation does not give guidance as to the manner in which a label might be expected to be permanently affixed to a motor vehicle recovery strap. While a label could be stitched to a recovery strap, for example, it would be for the manufacturer of the strap to ensure that the effect of affixing labelling in any particular manner was not to affect the performance of the product in any deleterious manner. Recovery straps which comply with the Queensland requirements will also comply with this regulation.

Regulation 8 – Instructions on use

This regulation provides the detail of the instructions on how to use and maintain a motor vehicle recovery strap which must be provided when recovery straps are supplied. The regulation requires that the instructions must include the same information as is currently required by section 3 of Schedule 5C of the Queensland *Fair Trading Regulation 2001*, but does not specify the form in which the instructions are provided. For example, the instructions could be on a leaflet enclosed in the packaging, or in a separate brochure provided to each purchaser of a recovery strap. Recovery straps which comply with the Queensland requirements will also comply with this regulation.

Regulation 9 – Warning to appear on strap and in instructions

This regulation provides the wording of the warning that motor vehicle recovery straps are required to have permanently affixed (under Regulation 7) and included in the instructions on use (under Regulation 8). The regulation requires that the warning must be in identical terms to that currently required by sections 2 and 3 of Schedule 5C of the Queensland *Fair Trading Regulation 2001*.

Regulation Impact Statement
Motor Vehicle Recovery Straps

Product Safety Hazard Response Branch
Australian Competition and Consumer
Commission

2010

Office of Best Practice Regulation
Reference No. 11399

Regulation Impact Statement – Motor Vehicle Recovery Straps

INTRODUCTION

This Regulation Impact Statement (RIS) has been prepared by the Australian Competition and Consumer Commission to examine the safety of **Motor Vehicle Recovery Straps** and to consider the need to regulate these products under the product safety provisions of the *Trade Practices Act 1974* ('the TPA').

On 2 October 2008, the Council of Australian Governments (COAG) agreed to a new consumer policy framework comprising a single national consumer law, having agreed to develop a national consumer law on 3 July 2008. In so doing, COAG based its decision on the proposals of the Ministerial Council on Consumer Affairs (MCCA), which were announced on 15 August 2008.

This framework will reduce multi-jurisdictional complexities and result in lower compliance costs for businesses operating nationally. Once implemented, 13 existing jurisdictional laws dealing with generic consumer protections will be reduced to one, substantially reducing business compliance costs.

The *National Partnership Agreement to Deliver a Seamless National Economy* (NPA) commits all Australian governments to pass legislation to implement a national consumer law by the end of 2010. A key objective of the NPA is to contribute to the creation of a seamless national economy, reducing costs incurred by business in complying with unnecessary and inconsistent regulation across jurisdictions.

The national consumer product safety provisions in the Australian Consumer Law (ACL) will replace the product safety provisions in Part V, Division 1A of the TPA and equivalent provisions in State and Territory Fair Trading Acts. The ACL will create a single national set of product safety standards and permanent bans that will apply in all jurisdictions.

These various reforms will be implemented throughout 2010 in time for commencement of the ACL on 1 January 2011. When the ACL commences, existing Commonwealth bans and standards will continue in force, under transitional provisions.

PROBLEM

What is the problem being addressed

This RIS examines the rationale for harmonizing existing State / Territory regulatory provisions dealing with motor vehicle recovery straps by means of a safety standard pursuant to s. 65C(2) of the TPA. [A motor vehicle recovery strap is a strap for attaching to a bogged vehicle to tow it clear of the bogged situation. It is also commonly known as a 'snatch strap'.]

Under the new framework described in the Introduction, existing State / Territory safety standards will lapse, and if they are not replicated under the ACL, consumers will lose significant safety protections which they are currently afforded under State / Territory fair trading legislation. While Queensland is the only jurisdiction to have

Regulation Impact Statement – Motor Vehicle Recovery Straps

presently legislated in relation to motor vehicle recovery straps, the product is used nationally, and the Product Safety Consultative Committee (comprising representatives from all jurisdictions), has identified the standard as one requiring national adoption as part of the harmonisation project.

Deaths

Although recovery straps are not inherently unsafe it is critical they are used in a safe manner. At least two fatalities and one serious injury have occurred in Queensland since 2003 as a result of the unsafe use of recovery straps. Incorrect attachment to tow bars and tow hooks have resulted in the tow hooks being sheered from vehicles and recoiled at force, striking and fatally injuring onlookers. Anecdotal evidence suggests that there have been many more incidents involving non-fatal injuries.

The available evidence suggests that deaths and injuries caused by snatch straps stem from their use / mis-use rather than from failure of the straps themselves. In consequence, the problem to be addressed, in essence, is the lack of knowledge that consumers have as to how the product should be safely used, and this is addressed by the current Queensland regulatory requirements. It does not appear likely that setting a performance standard for recovery straps would address the problem, as injuries would be likely to still result if the straps were misused.

One fatality was the subject to a Coroner's inquest in 2004 and resulted in the Coroner making the following recommendations:

- *the federal Department of Transport review the Australian Standard for webbing products including items commonly marketed as snatch straps, in particular with regard to accuracy of load bearing capacity, mandatory instructions for safe usage, warnings that use by attachment to tow bars can risk serious injury or death;*
- *review of vehicle manufacturer's strength standards of tow points to ensure such tow points will withstand attempts to extricate vehicles from bogged situations; and*
- *there be a public awareness and education program targeted at drivers accessing off-road areas and beaches to assist people in safely using snatch straps.*

The risk of injury in the circumstances described above has been assessed as being extremely high. This assessment is based on the assumptions shown in the fields on the left side of the following nomograph, based on the information found in this document. In particular, the injury data evidences that serious injuries can and do occur (the first two assumptions). The injury data also indicates that users of motor vehicle recovery straps rarely recognise the dangers of using these items, and the ready availability of this product in motor accessory stores suggests that motor vehicle recovery straps can be assessed as being generally available.

Regulation Impact Statement – Motor Vehicle Recovery Straps

RISK ASSESSMENT NOMOGRAPH v1.0b

Product: 4WD Recoverystraps (unregulated supply) Client: Project Code:

Maximum Potential Injury: Death
Probability Of Hazard Occurring: Possible
Hazard Recognition: Highly Improbable
Availability: General
Initial Risk Assessment: Extremely High (91)
Final Risk Assessment: Extremely High (91)

Save As... Print Page

ICPD, ICR Ergonomics Ltd
Polymer Technology, Polypropylene
L. Campbell, L. Campbell
L. Campbell
Phone: +61 (0) 300 280300
Fax: +61 (0) 300 280300
Email: info@icpd.co.uk

With kind permission of
MINISTRY OF CONSUMER AFFAIRS
MANATU KAHOKOHOKO

OBJECTIVES

What are the objectives of proposed government action?

Government action is considered necessary to help reduce the incidence of and potential for death and injuries to users of motor vehicle recovery straps, with the resultant cost savings to the community, and to give effect to a national product safety regime agreed by COAG.

Is there regulation currently in place?

A mandatory safety standard was introduced in Queensland in two stages in 2008.

The first stage in April 2008 involved the provision of safe use information on the packaging and on a leaflet supplied with the product. The second stage took effect in October 2008 when the requirement to have a permanent warning attached to the recovery strap was introduced.

It was considered by Queensland authorities that this two-stage warning scheme would ensure that core safety messages were read and acted upon by the user.

The Queensland mandatory safety standard can be found in Schedule 5C of the *Fair Trading Regulation 2001*.

The mandatory safety standard has not been introduced in any other jurisdiction. However, consultation with industry has shown that over 90% of suppliers supply into

Regulation Impact Statement – Motor Vehicle Recovery Straps

the national market and have used the Queensland mandatory standard as the benchmark, and that this has become a *de facto* national standard.¹ An examination of websites advertising recovery straps suggests that compliance with the present Queensland requirements is widespread, and consultation with 4WD clubs indicates general acceptance of the Queensland standard (see Attachment B).

OPTIONS

The options to manage the safety risk associated with recovery straps are as follows:

1. Rely on consumer education and current industry practice to manage the risk of injury (noting that the present Queensland mandatory standard will lapse on 1 January 2011 under the national scheme now being introduced).
2. While not strictly harmonisation of the existing regulations, another option would be to introduce a new standard for the performance of motor vehicle recovery straps that focuses on the strength of the material and the attachment ends.
3. Introduce a national mandatory safety standard under the TPA based on the existing Queensland mandatory safety standard. Queensland is the only state currently with regulation and there is no Australian Standard for recovery straps. Given the apparent widespread adoption of the Queensland standard, any national mandatory safety standard based on it is the most appropriate option.

Under normal circumstances the *status quo* (ie reliance on existing State labelling requirements) would be considered an option for consideration. However, under the agreed principles of the new Australian product safety system which is due to commence on 1 January 2011, there will be no provision for the States or Territories to introduce permanent bans or standards. Therefore, the current status quo will not exist after 1 January 2011. This means that the current Queensland standard will not be able to be enforced and hence there will be no mechanism in place to address the identified risks to consumers.

IMPACT ANALYSIS

Impact groups

Action to control the supply of motor vehicle recovery straps would impact on consumers who purchase the products, industry involved in the supply of the products and government agencies having responsibility for helping ensure the safety of consumer products and for providing health care services. The magnitude of this

¹ Source: Consultation with industry by the Queensland Office of Fair Trading

Regulation Impact Statement – Motor Vehicle Recovery Straps

impact is difficult to quantify, given the lack of relevant market data on matters such as numbers of recovery straps sold each year, etc, but an attempt has been made to provide meaningful data wherever possible.

Option 1 (Status quo)– Rely on consumer education and current industry practice to manage the risk of injury (noting that the present Queensland mandatory standard will lapse under the national scheme now being introduced).

The government might consider taking no regulatory action to replicate the present Queensland provisions when the national consumer product safety scheme comes into operation at the end of the year, and rely on industry adherence to the requirements of the then non-existent requirements and consumer education.

However, in a competitive environment, the absence of regulation is likely to result in an influx to the market of cheap(er) products that may not include the same information on safe use as has been required under the Queensland Regulations. In particular, this may occur for products imported from foreign countries manufacturing to specifications but with little awareness of the probability of injury if the product is misused.

Costs and benefits to consumers

Consumers may benefit from minor cost savings (resulting from reduced industry compliance costs) being passed on to them. However, the product is known to have been involved in preventable deaths, and these are likely to increase if products do not carry appropriate warnings.

Costs and benefits to industry

Suppliers will be able to supply recovery straps unrestricted, and competitive pressures may over time erode industry compliance with the present Queensland provisions. This may result in a small reduction in industry costs, as anecdotal evidence suggests that savings might approximate 1 – 2% (ACC estimate), which may or may not be passed to consumers.

However, industry will be exposed to potential product liability suits if they fail to provide appropriate labelling to protect consumers. [Part VA of the TPA provides a strict product liability regime for defective products. In determining whether goods are defective, s. 75AC allows courts to have regard to, amongst other matters, the packaging of the goods and any instructions for, or warnings with respect to doing, or refraining from doing, anything in relation to them. The present Queensland Regulations deal specifically with these issues.]

Costs and benefits to government

Governments will have potential cost savings if there are no regulatory requirements and no enforcement related activities need to be undertaken. There are also savings to government if regulations do not have to be maintained. However, in the absence of regulation, governments will need to place an increased emphasis on publicly-funded consumer education if policy goals are to be achieved and injury reduction

Regulation Impact Statement – Motor Vehicle Recovery Straps

maintained. If consumer injuries are caused by recovery straps, there will be attendant health costs to government.

A significant cost to government would be involved in responding to adverse criticism from the public and industry that might be expected to result from removal of mandatory requirements which were introduced to reduce death and injury. In the event that a death or serious injury were to be caused by misuse of a motor vehicle recovery strap (or by a strap which was not appropriate for the use to which it was being put), national media would publicize the event, and ministerial and public service time and resources would be diverted from other issues.²

In conclusion, consumer education through the publication of safe use product information such as information leaflets for distribution through retail outlets can have a positive effect on consumer product safety, but the experience of agencies monitoring product safety is that this mechanism alone will not ensure that products supplied comply with desired safety standards or that all consumers are made aware of the safety hazard. Industry, consumer groups, coroners and government safety agencies in all jurisdictions agree that safe usage of motor vehicle recovery straps can only be achieved by appropriate product labelling.

Option 2 – Introduce a new standard for the performance of motor vehicle recovery straps that focuses on the strength of the material.

Option 2 is not considered appropriate. As noted above, the available evidence suggests that deaths and injuries caused by snatch straps stem from their use / mis-use rather than from failure of the straps themselves. In essence, the issue to be addressed is one of product use rather than product failure.

Therefore, it does not appear likely that setting a performance standard for recovery straps would address the problem, as injuries would be likely to still result if the straps were misused. There is also no relevant Australian standard to provide technical guidance on what performance requirements are appropriate. Further, the introduction of a performance standard would increase compliance costs for all industry participants, rather than only for those who currently do not comply with the Queensland Regulations. In the absence of any clear evidence to suggest that deaths and injuries result from the straps themselves, these compliance costs would be an unnecessary burden on industry.

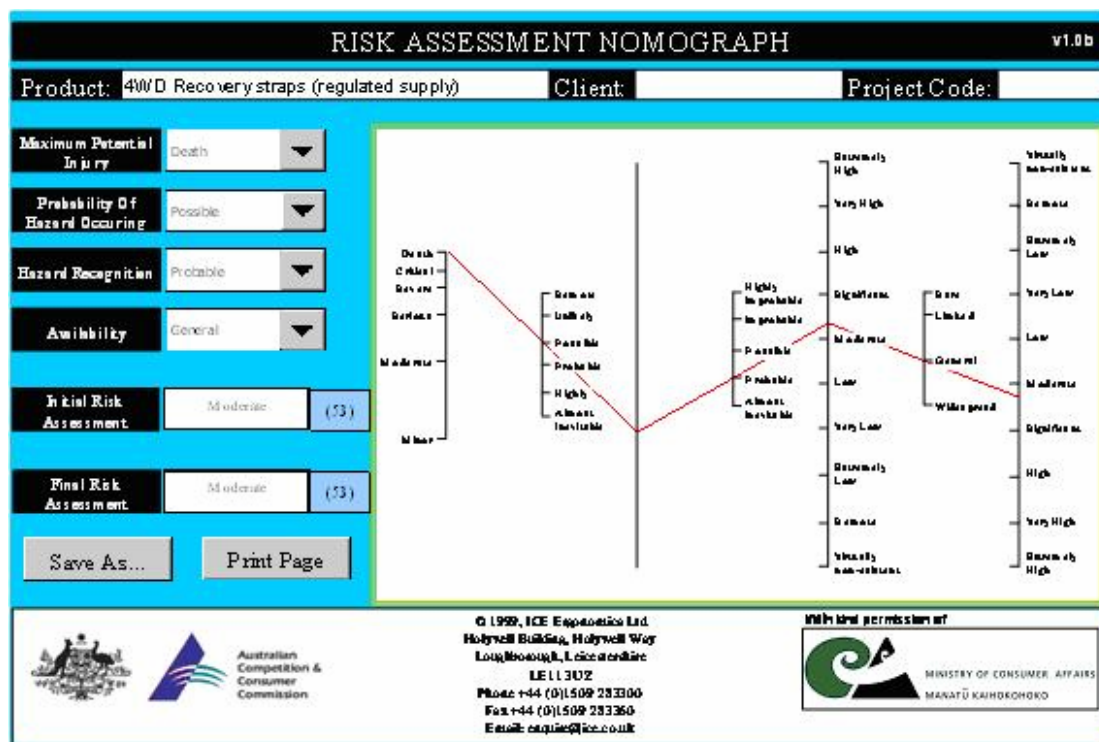
Moreover, the transition costs of implementing a new standard are likely to be greater than the costs associated with transitioning to a national standard based on the Queensland model – especially given that 90% of the industry is already complying with the Queensland labelling standard.

² While this potential cost is not readily quantifiable, the impact of critical media attention on government in product safety matters has been previously demonstrated in the course of the Pan Pharmaceuticals recall and subsequent litigation.

Regulation Impact Statement – Motor Vehicle Recovery Straps

Option 3 – Introduce a national mandatory safety standard under the TPA based on the existing Queensland mandatory safety standard.

The risk reduction likely to be achieved by maintaining the Queensland requirements on a national basis (compared with the non-regulated supply demonstrated at Page 2) is illustrated in the nomograph reproduced overleaf. The nomograph suggests that the effect of introducing a national standard is to achieve a significant risk amelioration in relation to this product. The ACCC also notes that it is unaware of any deaths / serious injuries occurring since passage of the Queensland provisions, and their subsequent adoption as a *de facto* national standard.



Costs and benefits to consumers

Consumers will continue to have access to recovery straps that have clear and consistent safe use information. They may have to pay marginally more for the product, to the extent that any additional industry compliance costs are passed on. However, most recovery straps ordinarily cost in the vicinity of \$50 - \$200 (depending on length and specification), and previous experience with mandatory labelling schemes suggests that the effect on cost is minimal (approximately 1–2%, as noted above based on ACCC estimates). Given that the Queensland Office of Fair Trading and the ACCC's research indicate that the Queensland standard is already a *de facto* national standard, a mandatory standard under the TPA is expected to have a minimal effect on costs to consumers.

Costs and benefits to industry

Industry would benefit from operating in a 'known' environment that operated nationally. There could be some additional compliance costs for any suppliers that do not currently supply into the Queensland market, although the ACCC does not have

Regulation Impact Statement – Motor Vehicle Recovery Straps

any evidence of whether any suppliers are in this situation. Indeed, it appears relatively unlikely.

Anecdotal evidence supports that around 10% of suppliers could face higher costs of adopting the standard, however, stakeholders have identified that the costs of applying the current Queensland standard are likely to be low (ACCC, stakeholder consultation). Suppliers that currently don't comply with the state standards will most likely face higher costs and potentially incur greater lead times to adjust to the new standard. Furthermore, because most of the industry is already complying with the Queensland standard, this option is likely to be less costly to industry than the costs associated with transitioning to a new performance based standard.

There would be ongoing compliance costs, but these are anticipated to be of minor significance, given the present compliance with the Queensland standard.

Costs and benefits to government

Government will incur enforcement costs related to acquisition and testing of samples and responding appropriately to any identified breaches, as well as educational costs in informing industry in relation to Commonwealth regulation. It is not anticipated that this proposal will have any impact on trans-Tasman trade, given the application of the *Trans-Tasman Mutual Recognition Act 1997*. It should also be noted that New Zealand has been involved in the various deliberations in relation to the Commonwealth's harmonisation proposals, and no concerns have been expressed.

The significant benefit is the saving of human lives. Many varying estimates of the 'dollar value' of a life have been made by overseas and Australian research experts. Although the range of estimates contained in the literature is quite wide, it suffices to say that all experts attribute a fairly significant dollar amount to the value of a human life.. In Australia, a 2003 article entitled "*The value of life and health for public policy*" (Abelson, P) estimated the value of a life lost as being in the range of A\$3.3 to 6.6 million. More recently a Guidance Note by the Office of Best Practice Regulation on 'Value of a Statistical Life' illustrated the difficulties in providing a meaningful valuation, given that the number of deaths / injuries which might be prevented by a measure will always be hypothetical, as the nature of the assumptions involved is invariably uncertain.³

This option is likely to be more cost effective rather than requiring that industry adopt to a 'new' standard different to the QLD model altogether. Although the ACCC notes it has limited information about the costs associated with doing this it is likely that adopting a 'new' standard would support greater costs. While a standard under the TPA would give national effect to the existing Queensland mandatory standard, the impact on most suppliers could be expected to be lower than the costs of transitioning to a new labelling standard especially given that there is already evidence that over 90% of the market apply the QLD standard⁴.

³ See <http://www.finance.gov.au/obpr/docs/ValuingStatisticalLife.rtf>.

⁴ Source: Consultation with industry by the Queensland Office of Fair Trading

Regulation Impact Statement – Motor Vehicle Recovery Straps

CONCLUSION AND RECOMMENDED OPTION (Provisional)

On the balance, option 3 would continue to support safety outcomes and impose the least cost on businesses. This is because, businesses are already applying the Queensland labelling standard.

Accordingly, Option 3 whereby government requires compliance with a national standard which specifies the provision of safe use warning labels is recommended as the most cost effective option. The standard would model the current Queensland standard. The overall cost of this option to industry and consumers is unlikely to be high. This option would also continue to support the existing safety benefits to consumers without imposing a significant cost burden on suppliers.

Proposed Form of Standard

It is intended that the proposed Commonwealth standard will adopt the essential safety requirements of the existing Queensland standard (reproduced at Attachment A), so that goods which comply with the Queensland standard will also comply with Commonwealth requirements. Consideration will be given, however, to whether minor changes can be made to the Queensland provisions to make the Commonwealth regulation less prescriptive without detriment to achieving the regulatory objective.

CONSULTATION

The draft of this RIS was circulated to the list of interested parties provided by Queensland authorities, and published on the ACCC's product safety website (www.productsafety.gov.au) as well as being drawn to the attention of stakeholders through the Business Consultation website and at least 5 other websites devoted to 4WD usage⁵. It was also made available to State / Territory / New Zealand authorities, all of which have been consulted on regulatory proposals being implemented as part of the harmonisation process described in the introduction to this RIS. During the period in which the draft was open for public comments, over 800 people viewed the information page for the draft RIS. 249 of those people came directly to that page from a search engine or link, and 38 people downloaded/viewed the RIS document⁶. Comments submitted on the draft RIS are summarised at Attachment B.

It is noted that when comment was sought on the (then proposed) Queensland standard, which provides the basis of the current proposal, the peak industry body

⁵ <http://www.4wdnsw-act.asn.au/> ; <http://www.pradopoint.com/viewtopic.php?f=27&t=8922> ; <http://www.aulro.com/afvb/general-chat/105236-snatch-straps.html> ; <http://forums.overlander.com.au/viewtopic.php?t=65807> ; <http://bungaribee4wdclub.forumup.com.au/viewtopic.php?t=284&mfo...>

⁶ As at 2 June 2010

Regulation Impact Statement – Motor Vehicle Recovery Straps

(Australian Automotive Aftermarket Association Ltd⁷) supported regulation and indicated that national adoption of the Queensland standard would also be supported.

The final recommendation of this RIS was formulated in light of the comments received during the consultation process.

IMPLEMENTATION AND REVIEW

It is recommended that a TPA consumer product safety standard for motor vehicle recovery straps be prescribed as soon as possible but that an appropriate transition period be allowed to support industry adjustment to the requirements of the national standard. Suppliers have recommend a transition period anywhere between 3 – 12 months.

It is proposed that the new standard would take effect 3 months from the time of commencement of the Regulations, in order that suppliers may clear non-complying stock and source new product where necessary.

The proposed TPA consumer product safety standard will be a national standard, and will replace the Queensland standard for motor vehicle recovery straps that will lapse on 1 January 2011 under agreed national product safety harmonisation arrangements, given effect to by the new Australian Consumer Law.

Under the *Legislative Instruments Act 2003*, Regulations expire after 10 years. If the Regulations are to be renewed, a RIS process is required beforehand. However, the ACCC's policy is to conduct periodic reviews of mandatory standards to ensure that they remain effective and relevant to the market. In accordance with best practice, this ordinarily involves a formal assessment of mandatory standards approximately every five years.

⁷ The AAAA claims to represent 1300 companies at all levels of the auto aftermarket supply chain, and notes that the sector collectively turns over around \$5 billion per year and employs 30,000 people.

Regulation Impact Statement – Motor Vehicle Recovery Straps

ATTACHMENT A

‘Schedule 5C Safety standard for motor vehicle recovery straps

section 13F

1 Packaging marking

- (1) The packaging for a motor vehicle recovery strap must display the following information about the strap in English and in a way that is clearly visible and legible, including, for example, on the packaging or on a label attached to the packaging—
 - (a) its brand name or supplier’s logo;
 - (b) the name and contact details of its Australian manufacturer, importer, distributor or other supplier;
 - (c) its minimum breaking strength, expressed in metric units;
 - (d) a recommendation that the minimum breaking strength of the strap should be between 2 and 3 times the vehicle’s gross vehicle mass (GVM).
- (2) Nothing in subsection (1) prevents the inclusion of other information with the packaging.

2 Permanently fixed information

- (1) The following information about a motor vehicle recovery strap in English must be permanently fixed to the strap, including, for example, by stitching a label to the strap so that it is clearly visible and legible when the strap is being used—
 - (a) the name or logo of its Australian manufacturer, importer, distributor or other supplier;
 - (b) its batch code or serial number;
 - (c) its minimum breaking strength, expressed in metric units;
 - (d) a recommendation that the minimum breaking strength of the strap should be between 2 and 3 times the vehicle’s gross vehicle mass (GVM);
 - (e) advice that the strap must be suited to the GVM of the lighter of the 2 vehicles used in the recovery process;
 - (f) the warning stated in section 3(2)(b).
- (2) Nothing in subsection (1) prevents the inclusion of other information on the strap.

Regulation Impact Statement – Motor Vehicle Recovery Straps

3 Accompanying information

- (1) A motor vehicle recovery strap must also be accompanied by a document, other than the packaging, stating the following information written in English—
 - (a) a recommendation that the minimum breaking strength of the strap should be between 2 and 3 times the vehicle's gross vehicle mass (GVM);
 - (b) advice that the strap must be suited to the GVM of the lighter of the 2 vehicles used in the recovery process;
 - (c) how to use and maintain the strap.
- (2) Without limiting subsection (1)(c)—
 - (a) the information to accompany a motor vehicle recovery strap must state all of the following—
 - (i) persons intending to use the strap should consider completing a nationally recognised four wheel drive training course or contact a four wheel drive club for comprehensive advice on the proper selection and use of the strap;
 - (ii) the strap must not be used for lifting or conventional towing;
 - (iii) persons intending to use the strap must ensure that the strap is not damaged and is in usable condition;
 - (iv) the strap's strength and stretch are reduced when the strap is saturated;
 - (v) something like a recovery damper, heavy bag or blanket must be draped over the strap during its use to reduce any unintentional rebound of the strap;
 - (vi) while the strap is being used, persons situated outside the motor vehicles involved in the recovery process must—
 - (A) be kept at a safe distance (recommended as at least 1.5 times the length of the unstretched strap) from either of the vehicles involved in the recovery process; and
 - (B) never situate themselves within the path of the vehicle performing the recovery; and
 - (b) the information must also include the following—

‘WARNING—Always follow product instructions. It is important to correctly attach the motor vehicle recovery strap to a motor vehicle. A standard tow ball or vehicle tie-down point is not designed for this purpose and may

Regulation Impact Statement – Motor Vehicle Recovery Straps

result in the strap or a vehicle component detaching from a motor vehicle and striking and seriously injuring or killing a person. Only attach the strap to a vehicle recovery point or device that is suitably rated for use with the strap. Incorrect use has previously resulted in serious injury and death.’.

Regulation Impact Statement – Motor Vehicle Recovery Straps

ATTACHMENT B CONSULTATION COMMENT

Below is a summary of significant comments from stakeholders (not identified in consequence of privacy considerations) on the regulatory issues, as provided in response to the circulation of this RIS in draft form, together with the response determined after analysis:

Comment:

As the [REDACTED] of FWDQLD and a qualified 4 wheel driver trainer and one who had a great deal to do with the formulation of the current Qld standards, I would like to submit and support the adoption in full of the current Queensland Mandatory Safety Standards..... I would urge the ACCC not to change the current Queensland Mandatory Safety Standards and simply adopt them as they are.

Response:

While the ACCC considers that Commonwealth regulation does not need to be as prescriptive as the Queensland requirements to achieve the same objective, harmonisation requires that goods which comply with the Queensland standard will also comply with any Commonwealth regulatory provisions which replace the Queensland standard.

Comment:

I am a certifier 4WD trainer and assessor and a member of [REDACTED] 4WD Club of Australia Inc and also a member of the Driver Trainer Unit (DTU) of [REDACTED]..... I therefore support Option 2 "Introduce a national mandatory safety standard under the TPA based on the existing Queensland mandatory safety standard " in your document "Regulation Impact Statement - Motor Vehicle Recovery Straps" and would agree that having the proposed legislation in force would:

1. reduce the number and severity of personal injuries associated with the use of snatch straps in vehicle recoveries.
2. cause little additional cost to either suppliers or consumers.

Response:

No response necessary

Regulation Impact Statement – Motor Vehicle Recovery Straps

Comment:

I'm very happy to see standardisation, labelling, documentation and instructions for use of these tools, however, I think this will probably not solve the problem even though there have not been any reported deaths in Qld since they brought in their regulations..... A more meaningful regulation might differentiate between tie-down points and towing hooks on vehicles. Many people new to 4wd have asked if their tie-down point is a suitable snatching point. To me the snatch strap should be like the fuse in an electrical circuit, which gracefully fails if the whole system is overloaded.

Response:

As the intention is to achieve harmonisation with existing requirements, this RIS has not considered options requiring the imposition of additional regulatory requirements.

Comment:

In essence, the [REDACTED] supports the introduction of the regulation of recovery or snatch straps, however, concomitant with the regulation of snatch straps, it is equally important that regulation or design consideration be given to attachment points on the vehicles either being recovered or doing the recovery. It is the [REDACTED] view that failure of the attachment point is more likely to occur than failure of the strap itself..... Snatch straps if constructed to an appropriate Standard are not of themselves inherently dangerous or hazardous. It is the misuse of the item, lack of awareness of the hazards posed, and/or the failure of attaching hardware that presents a danger. These dangers can be ameliorated to some extent by an appropriate Standard to regulate the design and construction of the snatch strap. However, complementary regulation of the vehicle fixing hardware is also considered a key element of limiting to as low as reasonably practicable the risk of death and injury that may occur when undertaking vehicle recovery activities..... the [REDACTED] agrees with the overall rational of the standard....

Response:

In a lengthy submission, this 4WD organisation made a number of recommendations for additional regulation of snatch straps. However, as the intention is to achieve harmonisation with existing requirements, this RIS has not considered options requiring the imposition of additional regulatory requirements.

Regulation Impact Statement – Motor Vehicle Recovery Straps

Comment:

re: the Introduction a national mandatory safety standard under the TPA based on the existing Queensland mandatory safety standard.

hi yes it think that there needs to be a national standard re use of recovery straps. I think that there needs to be another warning on the label, that says 'snatch straps are not to be used as a winch extension strap', as i have see some people doing this over the years, and i have told them of the risk, some listen, some don't.

Response:

No additional response necessary [Refer responses above.]

Comment:

As a stakeholder [REDACTED] have no issue with adopting (without change) the Queensland mandatory safety standard for motor vehicle recovery straps.

If any changes are made to the Queensland standard we do have concerns that 3 months will be insufficient time to ensure that changes are fully implemented.

Response:

Given that the Queensland standard is already a *de facto* national standard, and that the Queensland requirements have now been in place for a considerable period, it is considered unlikely that any significant suppliers would be supplying non-compliant snatch straps, even in jurisdictions where they presently have no obligation to do so. In consequence, it is considered that only a short lead time needs to be allowed before requiring compliance with the proposed national mandatory standard

Comment:

Regulation Impact Statement – Motor Vehicle Recovery Straps

Acknowledging the considerable amount of work that was undertaken in a constructive and consultative manner in the framing of similar Queensland regulation we do not have any objection to National Regulation reflecting the basis of the Queensland Regulation. The only comment we would make is that considering that the majority of this product is imported at long lead times, there should be a period of 9 - 12 months for existing product to be sold through the system. With regard to the implementation of the Queensland Regulation, suppliers were able to move stock to other states. Under a national regulation, that opportunity does not exist, so 9-12 months should enable all suppliers to comply with new labelling requirements.

Response:

No additional response necessary [Refer responses above.]
