NSW GOVERNMENT | Transport for NSW

PR12/15837

Mr Greg Aplin MP
Chair
Joint Standing Committee on Road Safety
Parliament of NSW
Macquarie Street
SYDNEY NSW 2000

Dear Mr Aplin

I refer to the letter dated 29 August 2012 from Mr Bjarne Nordin, Inquiry Manager about the Joint Standing Committee on Road Safety's Inquiry into Driver and Road User Distraction.

I am advised that on 17 August 2012 representatives from Transport for NSW appeared at a hearing before the Staysafe Committee on this matter.

I am pleased to enclose Transport for NSW's response to the questions on notice from the 17 August 2012 hearing and supplementary questions from the Staysafe Committee.

Should you have any queries relating to the submission, please contact Ms Margaret Prendergast, Acting General Manager, NSW Centre for Road Safety on 8265 7510.

Yours sincerely

Tim Reardon
Deputy Director General, Policy and Regulation

27 SEP 2012

Encl

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STAYSAFE INQUIRY INTO DRIVER AND ROAD USER DISTRACTION
TRANSPORT FOR NSW – QUESTIONS (SEPTEMBER 2012)

Questions Taken on Notice (17 August 2012)

1. **What was spent on speeding campaigns in the last year, what is proposed to be spent this year and what is proposed to be spent on the distraction campaign?**

   In 2011/12, $2.74M was spent on the Don't Rush campaign featuring Dr Brian Owler, which aimed to raise awareness about the dangers of speeding and driver fatigue.

   Currently, over $4M is forecast to be spent on speed road safety awareness campaigns in 2012/13. This preliminary figure may be subject to change depending on approvals for new campaigns.

   A new mobile phone campaign is proposed to form part of the total road safety awareness campaigns which is forecast to be around $21.5M in 2012/13. The proposed expenditure on a new mobile phone distraction campaign is not yet known as it is still in an early stage of development. It is likely to involve annual expenditure of a magnitude similar to the Dr Owler campaign.

2. **How many people were booked with mobile phones last year and how much revenue did they generate?**

   In the 2011-2012 financial year there were 42,322 mobile phone penalty infringement notices issued by NSW Police, which equates to a value of $11,290,658. The amount of revenue received would differ from the value of the infringements issued.

3. **What do you think about the New Jersey law of dangerous walking?**

   Initial media reports in May 2012, suggested that in the New Jersey borough of Fort Lee it was an offence to use a phone for text messages while walking. Later media reports indicate that local Fort Lee police were only issuing infringements for pedestrians using their phones who were also jaywalking.

   Transport for NSW is not planning to create any new road rules for pedestrians relating to the use of mobile phones or other technological devices. The Road Rules 2008 already contain rules that apply to distracted pedestrians if it leads to them incorrectly crossing the road, or causing a traffic hazard by moving into the path of a driver.

Supplementary Questions on Notice

a) The nature and extent of distraction as a contributor to crash casualties on NSW roads

1. **Several submissions make reference to definitional problems and confusion surrounding the terms distraction and inattention, making it difficult to classify and codify the contribution this makes to the crash data.**

   - **Can you detail for the Committee what you understand by the term road user distraction and which kinds of distraction represent the greatest threat to road safety?**
   - **Do you think it would be useful to distinguish between different taxonomies of distraction and which kinds of distraction represent the greatest threat to road safety?**

   Driver distractions are demands on the mental and physical capacity, which are not related to the driving task. The driving task is complex and requires the use of cognitive, visual and manual resources. The need for drivers to focus on many things in the driving environment such as the posted speed limit, signage (static traffic signs and RMS/Motorways variable message signs) and other road users, all form part of the driving task.

   Everything else that interferes with the driving task may be considered a driver distraction. When a driver uses their cognitive, visual and manual resources for a secondary activity such as making a phone call, less attention is afforded to the driving task.

   Transport for NSW is particularly concerned about the use of mobile phones and other technological devices and their impact in road safety, because of their widespread and increasing use in the community.

   It is very difficult for the NSW Police Force to collect evidence at a crash scene as to what, if any, type of distraction contributed to a crash. The different types of distractions and how they are named or categorised is less important than improving the understanding of the distraction risks of various activities.

2. **Research has shown that the use of mobile phones may be beneficial as an alertness aid for long distance truck drivers.**

   - **Do you consider that heavy vehicle drivers should be subject to the same road rules as other drivers in relation to their use of mobile phones and back to base communication devices?**

   Heavy vehicle drivers are subject to the same road rules as other drivers with respect to mobile phone use. However, it is acknowledged that professional drivers sometimes require access to other technologies to perform their work. The Road Rules 2008 allows drivers to use two-way radios and driver's aids such as dispatch systems, navigational and intelligent highway and vehicle safety equipment and vehicle monitoring devices.

3. **The submission states that Transport for NSW conducts regular research into mobile phone use and distraction (p10).**
   - **Is similar research carried out for other kinds of distraction, such as in-car electronic devices and roadside signage?**
   - **Do you take account of research conducted in other jurisdictions, both in Australia and overseas?**

   Transport for NSW takes into account research conducted across Australia and internationally.

   Transport for NSW research includes analysing the use and distraction risks of all types of in vehicle and roadside devices. A survey commissioned by the Centre for Road Safety and conducted in September 2011 examined the prevalence and patterns of use of a range of devices including radios, CD players and navigation devices. The findings of this survey were included in pages 10 and 11 of the NSW Government submission.

   Transport for NSW also works collaboratively with research being conducted nationally, and by other state and territory governments. For example, the Centre for Road Safety was involved in distraction research being conducted by the Monash University Accident Research Centre, commissioned by VicRoads to inform the Australian Road Rules Maintenance Group discussion about further amendments to the road rules to better deal with distraction.

   Further, Transport for NSW is involved with other jurisdictions in the implementation of the National Road Safety Strategy 2011-2020. A national action under this strategy is *"Road safety and driver distraction: Review of the evidence and options for countermeasures"* which includes two future steps:
   - Developing educational and regulatory interventions to minimise the effects of driver distraction.
   - Monitoring and assessing the evidence on driver distraction associated with mobile phones and other communication devices, for identification of potential countermeasures (including for professional drivers).

4. **Claims are made about the lack of reliable data on the impact of static vs moving advertising and variable messaging road signs. The submission from the Outdoor Media Association refers to incomplete and contradictory studies in this regard.**
   - **Is this an area prioritised for future research consideration?**
   - **To what extent is the Centre for Road Safety examining the safety impacts of other forms of distracted driver behaviour such as eating, drinking, smoking and grooming as part of its broader research efforts?**

   The aim of roadside advertising is to attract the attention of road users including drivers. The impact of roadside advertising on road safety is difficult to determine, in part due to the difficulty of identifying a particular sign as the causal factor in a crash.

   In 2010, the University of NSW was commissioned by the Centre for Road Safety to conduct a literature review on the effects of electronic static displays (ESDs) and other forms of roadside advertising on driver distraction and safety.

   The review found that very little empirical research directly addressed the road safety impact of ESDs and other electronic advertising signs. It also found that the consensus of opinion among the field studies conducted across the world is that ESDs probably do have a road safety impact, however the "evidence is certainly not conclusive". This finding is not unexpected because ESDs are an emerging technology.

Transport for NSW is interested in learning more about the potential road user distraction risks of roadside advertising.

Austroads has been investigating the impact of roadside advertising on road safety and is currently drafting a technical report.

Transport for NSW does not have adequate information to assess the contribution of factors such as eating, drinking, smoking and grooming to causing road crashes.

5. **Another source of distraction identified in submissions is that of electricity poles and road signs planted too close to the roadway and interfering with sight lines and rear view mirrors of large vehicles.**
   - **Have street furniture and electricity poles have been identified as a source of road safety hazards in your own research activities?**

   Transport for NSW is not aware of utility poles and road signs being a major distraction risk for drivers, but poles and other street furniture can increase the risk of being killed or injured in the event of a crash.

   Crashes involving utility poles in urban areas and crashes with trees in rural and regional areas are significant road safety concerns.

   In August 2009, the Centre for Road Safety released a document titled, *Reducing Trauma as a Result of Crashes Involving Utility Poles*, to guide road authorities and utility companies in ensuring that utility poles are appropriately located to reduce crash risk.

   In December 2010, the former Roads and Traffic Authority held a workshop with a number of utility agencies to discuss the development of a risk assessment tool for use by utility agencies. The risk assessment tool would identify risk exposure of pole installations in different types of locations, to assist in the safer installation of new poles and reduce the road trauma risk exposure of existing poles. Subsequent investigation by the University of NSW identified that the Roadside Impact Severity Calculator (RISC) developed by Queensland Transport and Main Roads and the American Association of State Highway Technical Organisations was an appropriate tool to assist in the safer installation of poles. Utility agencies have been encouraged to use RISC as a planning tool.

b) Current rates and future trends in take up of electronic devices, both by road users and vehicle manufacturers

6. **Car manufacturers are now incorporating in-vehicle communication systems combining music, video and GPS functionality as part of the dashboard and vehicle design**
   - **Have any discussions been conducted with vehicle manufacturers to explore the potential safety risks associated with these devices?**
   - **Are there any plans to include in-car devices in the list of prohibitions applying to drivers while in charge of a moving vehicle?**
   - **Have policies been developed to determine the best placement of these devices in vehicles to minimise visual and cognitive distraction?**
   - **Is there a need for specific Australian Design Rules to deal with this trend?**

   The risk arising from driver distraction from in-vehicle communication devices is already addressed in a vehicle's design. The mandatory vehicle standard Australian Design Rule 42/04 *General Safety Requirements* (ADR42/04) has specific requirements relating to the operation and positioning of television and visual display units to ensure that they do not

obscure the driver's vision and that the image can only be visible to the driver if it is a 'drivers aid'.

In February 2012, Transport for NSW tabled a paper at the Australian Motor Vehicle Certification Board, which maintains the ADRs and is convened by the Commonwealth Department of Infrastructure and Transport (DIT). The paper requested that the requirements in ADR 42/04 be reviewed in light of the growing trend to incorporate more sophisticated in-vehicle communication devices in new vehicles. The paper requested that consideration be given to amending ADR 44/02 to include more specific advice on what constitutes a 'drivers aid'; require screens that are visible to driver to blank out or only show a driver's aid when vehicle is in motion; require keypad buttons on devices that can select alternate functions or text/email to be disabled when vehicle is in motion; and to limit the brightness to reduce glare to the driver at night.

The DIT advised that this has already been identified as an issue in the National Road Safety Strategy, and it was preparing a position paper on it. It also advised that it had previously refused Compliance Plate Approval for some European vehicles on the basis that they did not comply with ADR 42/04. VicRoads offered to provide the DIT a research paper on the subject it had previously commissioned from Monash University Accident Research Centre in conjunction with Holden.

Following this, the matter was tabled with an industry forum, and the Federal Chamber of Automotive Industry supported the initiative to provide more practicable rules for vehicle designers that will help prevent driver distraction.

7. **The NSW Taxi Council makes reference to and opposes the use of a number of new smartphone applications which enable passengers to make direct bookings via their mobile phones.**
   - **Do you consider there to be any safety implications from this practice? Do you support the Taxi Council's recommendation to ban such applications?**

   Professional drivers including taxi drivers are subject to the same road rules as other drivers. As long as taxi drivers comply with the road rules relating to the use of mobile phones (Rule 300) and visual display devices (Rule 299), there are no particular road safety concerns about the use of these booking applications.

c) Regulatory means of enforcing harm minimisation caused by such devices

8. **The Motorcycle Council of NSW refers to the potential use of driving simulators to ascertain the distraction potential and cognitive loading of a new device.**
   - **What is your response to the suggestion that all new devices should be assessed to determine their potential to distract drivers?**

   Researchers into the issues of driver distraction often use driving simulators and they allow evaluation of driver performance in a controlled yet relatively realistic and safe environment. Driving simulators vary greatly in type and realism. Researchers generally classify the realistic nature of driver simulators in terms of low, mid and high fidelity. A high fidelity simulator offers the most realistic driving environment including a vehicle cabin, advanced graphics and 360^0 field of view as well as a sophisticated motions or movements. A mid fidelity simulator generally has a realistic cab or vehicle, large projection screens and occasionally very simple movement capability. Low fidelity simulators usually consist of a personal or desktop computer and simple controls.

   Regan (2009) notes a number of disadvantages of driving simulators as research tools including that data collected can be influenced by the driver learning to use the simulator, and high fidelity simulators can be very expensive to install and manage. For example the

high fidelity simulator developed and managed by the Centre for Accident Research and Road Safety - Queensland cost over $1.5 million to develop and a team of dedicated researchers and technicians to manage it on an ongoing basis.

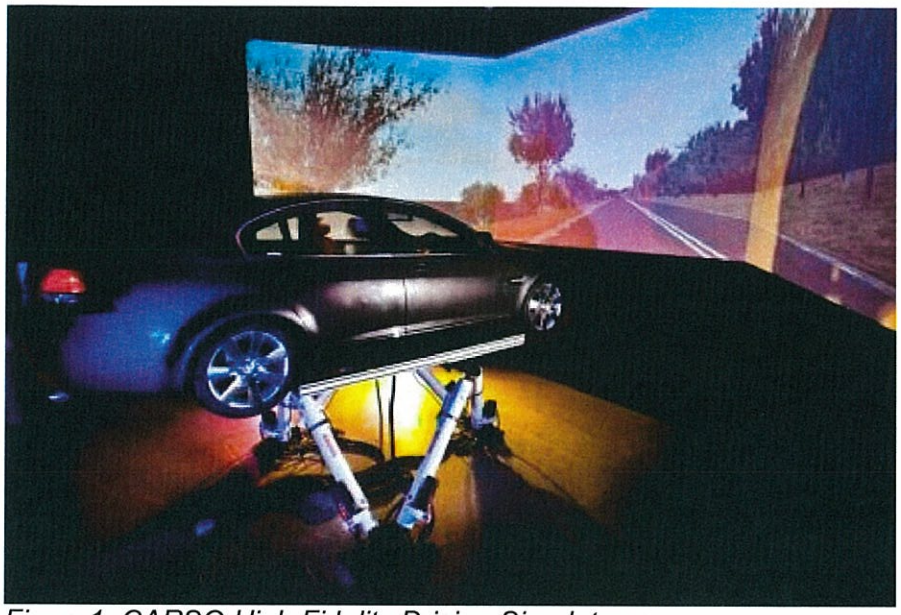


Figure1: CARSQ High Fidelity Driving Simulator

Simulator discomfort (nausea) is also another issue encountered with simulators especially with older drivers and females. This discomfort can affect the results of simulator studies. It has also been found that the cognitive resources that drivers use in a simulator may differ significantly from those used in a real driving situation. Regan (2009) gives an example of this when he speaks about drivers in simulators glancing away from the road for a longer period of time to use a mobile phone because they know their actual safety is not compromised in the simulator situation when compared to a real on road situation. This may compromise the validity of data from simulators when using them to measure distraction.

In 2012 the International Standards Organisation released standard ISO 26022:2010; *Road vehicles — Ergonomic aspects of transport information and control systems — Simulated lane change test to assess in-vehicle secondary task demand.*

This International Standard describes a dynamic dual-task method that quantitatively measures human performance degradation on a primary driving-like task while a secondary task is being performed. The result is an estimate of secondary task demand. The method is laboratory based, and defines the method, the minimum requirements for equipment to support the method, and procedures for collecting and analysing data derived from the method.

In the Lane Control Test (LCT), a test participant is required to do a primary task consisting of driving at a constant, system-limited speed of 60 km/h along a simulated straight three-lane road containing a series of lane changes defined by signs displayed on a screen. Simulated vehicle position is controlled by means of a steering wheel. Participants are instructed in which of the lanes to drive by signs that appear at approximately regular intervals on both sides of the track. The LCT is performed by participants according to pre-test instructions contained in this International Standard. The method may be implemented in a laboratory, in a driving simulator, in a mock-up or in a real vehicle.

Distraction from the primary driving task can be measured using an International Standard (ISO 26022:2010). It applies to both Original Equipment Manufacturer (OEM) and aftermarket in-vehicle systems. It also applies to systems either portable or integrated into

the vehicle. The driver behaviour principles, the specific task procedures and driving task are only applicable to the operation of a passenger car. No similar ISO standard has been developed for heavy vehicles at this stage.

Whilst it is theoretically possible to test all new devices for driver distraction using ISO 26022:2010 this would be a very large testing program. It could be an administrative burden on governments and industry. Issues that need to be considered include:

- Would the devices tested only be those installed by the Original Equipment Manufacturer or include aftermarket products as well like personal navigation devices and mobile phones?
- Who would pay for the testing of potentially tens of thousands of devices?

In addition to testing the devices, any test would also need to be applied to various applications or software running on an individual device. For example a quick search on the Android Application Store, Google Play for road safety applications that could be used on Android smartphones and tablets indicated that more than 1,000 products are available. It was estimated in April 2012 that over 4,000 models of smartphones and tablets use the Android operating system, each one slightly different in terms of its user interface. If each road safety application on each device was tested for driver distraction on 100 test drivers then around 400 million tests would have to be conducted. Additional tests would then be needed to be completed for iPhones, iPads, Blackberry devices and smartphones using the windows mobile operating system. Clearly testing all devices for distraction is not possible.

However, it may possible for application developers and device manufacturers to arrange testing of their own devices by an independent organisation to the ISO 26022:2010 standard. Such devices or applications could then be marketed as meeting the standard in a similar way to how the Australasian New Car Assessment Program currently operates.

d) Technological solutions to managing the harmful consequences of distraction

9. **The NSW Government states that there is a lack of consensus about which technological countermeasures to distraction are the most effective (p28). The submission then lists a number of devices and applications engineered to assist the driving task, including voice activation, disabling devices, phone blockers, driver monitoring and intelligent speed adaptation.**

    - **Of the technology remedies attempting to reduce the impact of distraction cited in your submission, which do you think are most promising from a safety point of view?**

    There are various countermeasures used to tackle driver distraction. Some aim to prevent the mental overload or distraction from occurring in the first place and others aim to mitigate the outcome of the distraction by redirecting the driver's attention to the driving task by using visual or audible alerts. However because of the different methods researchers use to measure driver distraction, there is little agreement on which countermeasures are the most effective.

    Voice activated route guidance and infotainment systems may appear to be less distracting than manually controlled systems, however they have been criticised for creating too much cognitive overload on the driver.

    Disabling and blocking devices are promising, but many can be deactivated by the driver and others such as smartphone applications rely on the driver to turn the application on each time, and are unlikely to be purchased by drivers wishing to use their devices whilst driving.

The most promising countermeasures currently available in Australia include:

- Object Detection Warning and Braking Systems - These devices use forward-looking cameras, radar systems or lasers to detect a pedestrian, cyclist or another vehicle, and if the driver fails to take evasive action then the system will alert the driver using visual and/or audible alerts, and in some cases will automatically apply the brakes to stop the vehicle.
- Adaptive Cruise Control - This technology supplements regular cruise control with a vehicle-to-vehicle distance monitoring system which uses a range of in-built sensors to automatically decelerate (and accelerate) the vehicle to maintain a pre-set following distance from the vehicle ahead.
- Lane Departure Warning Systems - Onboard camera systems monitor the road's line marking and can detect if a driver unintentionally veers out of the lane. The driver is alerted via visible, audible and in some models haptic alerts (a vibrating steering wheel). Other systems can strategically apply the vehicle's brakes to steer the vehicle back to the original lane.
- Intelligent Speed Adaptation (ISA) - This system warns an inattentive driver when they exceed the prevailing speed limit using visual and audible alerts. A 2010 study undertaken by the Centre for Road Safety estimated that the fitting of adaptive ISA technology to all vehicles in Australia could reduce serious crashes by 19.3% and fatal crashes by 18.9%.
- Road Design Technology - Improvements in the application of raised edgelines and centrelines ('rumble-strips') has meant that this technology is a proven countermeasure to driver distraction and fatigue.

- **Do you agree with the claim that hands free systems can in fact give the driver a false sense of improved safety over hand held devices?**

  All things being equal, using a hands free system is safer than if the device is hand-held because it reduces the need for manual resources. However, a hands free phone still requires the use of cognitive resources during a conversation. Research suggests that all mobile phone use has a degree of risk in the road environment, however holding the phone has a greater risk.

10. **The submission from the Transport and Road Safety Research group at UNSW refers to the potential benefits of "workload managers" to prevent drivers from engaging in risky tasks when they are too heavily loaded to deal with distraction. This includes the use of systems to lock out driver access to some vehicle controls.**

- **What is your view of the use of systems to limit distraction and provide real time driver distraction warnings to regain control within the vehicle when the driver is not fully engaged in the driving task?**

  Transport for NSW supports the use of systems that prevent drivers from becoming distracted by irrelevant information such as incoming telephone calls or texts or attempting to use other non-essential in-vehicle devices when undertaking complex driving tasks, provided such workload management technology complies with the relevant Australian Design Rules. Some vehicles currently available in Australia already incorporate this technology.

- **Is this an area in which you will be conducting further research?**

  Transport for NSW will continue to monitor research into the development of vehicle human-machine interface (HMI) technologies, including after-market devices and those

fitted by the vehicle manufacturer. There are no current plans to conduct specific driver workload management studies in the short-term.

11. **The question of driver awareness of distraction risk is also addressed in the submission from Suncorp. Research conducted jointly by AAMI and the University of Sydney has resulted in a trial involving a 10% insurance discount for fleet vehicles which install safe driving tracking and monitoring systems.**

    - **Are you aware of the study conducted by AAMI and the University of Sydney using GPS tracking to encourage safe driving and the subsequent 10% reduction in premiums for vehicles using systems to increase driver awareness?**

      The Centre for Road Safety is aware of Dr Greaves' work on GPS tracking and payment of incentives for reducing speeding, night-time driving and the overall number of kilometres travelled. NSW Centre for Road Safety researchers have been testing a similar system in their road safety research vehicle over the last two months, which is developed by Mercurien Ltd and known as 'BetterDriver'. The product website describes 'BetterDriver' as a service designed to 'encourage good driving habits by delivering immediate in-car feedback and trip by trip reviews'. It is aimed at new drivers and their parents. Transport for NSW is aware that AAMI is offering a 20% discount on insurance to the first 1,000 drivers that install 'BetterDriver'.

      Discussions have also been initiated with Telstra Corporation who are developing a similar product.

    - ***What do you think of this approach?***

      There is limited evidence of the effectiveness of these types of monitoring systems but the work by Dr Greaves at Sydney University is contributing to our knowledge about the potential benefits of such a road safety countermeasure. GPS tracking and reporting in isolation is unlikely to greatly improve road safety but in combination with a reward, discount on insurance or in-vehicle feedback such as an alert, it does have potential.

      The Centre for Road Safety is currently planning a monitored Intelligent Speed Adaptation (ISA) pilot with up to 15 fleet vehicles. Each vehicle would have an ISA device fitted that warns the driver when they exceed the speed limit as well as the capability to log and report speeding behaviour. It is planned to use non-compliance reports for speeding generated by the ISA system as an indicator for Work Health and Safety performance within the organisation.

12. **The NSW Government submission refers to Section 5 of the Road Users' Handbook as a source of information about distraction and road risk. Additionally, reference is made to education brochures produced by the Centre for Road Safety, school base education programs and web based resources for additional information about mobile phones and associated penalties for inappropriate use.**

    - **The submission states that Transport for NSW is constantly developing and refining campaigns to target road users about the risks of distraction. What is the latest example of such a campaign? How successful has it been and have you evaluated similar campaigns in the past?**

      Transport for NSW constantly refreshes its road safety education resources and updates its School Road Safety Education Program.

      Transport for NSW has initiated development of a new major distraction campaign. Attitudinal research has been conducted which is informing the development of problem definition brief to initiate a new campaign.

13. **NRMA Insurance advocates the greater use of State-wide education campaigns on road user distraction similar to ones conducted in Queensland and Victoria.**
    - **Are you aware of distraction education campaigns conducted in other Australian jurisdictions? Have you incorporated any beneficial features of these into your own campaigns?**

      In developing road safety awareness campaigns, Transport for NSW always scans campaigns conducted in other states and territories, and will do so in developing a new major distraction campaign.

14. **The submission makes reference to the Centre for Road Safety Mobile Phone and Driving brochure, which is issued to new learner drivers after they have received their licence.**
    - **Does the driving test also assess knowledge about distraction as part of the licensing process? What else provided in the way of curriculum resources to teach safe driving as part of the school education system?**

      The Road User Handbook is the source of information on the road rules and safe driving practice used by applicants for a driver's licence. The Road User Handbook has extensive information on distractions including those that can lead to crashes, crash risk and information on reducing distractions such as the use of mobile phones, GPS, radio, CD players, loose items in the cabin etc. The Driver Qualification Test Handbook also has a section on distractions and crash risk.

      Applicants undertaking the Driver Qualification Test must deal with any distractions that appear in the film footage as they identify and correctly react to hazards. The driving test itself is designed to assess the applicant's ability to drive safely and to deal with any hazards or distractions presented during the test. The new test, introduced in 2007, is far more robust than traditional driving tests and, where possible, is delivered in high traffic and challenging environments requiring the learner driver to demonstrate an ability to deal with distractions and hazards in order to pass the test.

      The NSW School Road Safety Education Program provides educational resources to all schools and professional development on road safety for teachers throughout NSW on an ongoing basis. The program has produced two innovative resources to engage and influence young adults who are learning to drive.

      The first of these resources, *In the driver's seat – the nature of authority,* contains a variety of stimulating teaching and learning activities developed around an assortment of images, advertisements and texts to engage students in discussions about road safety and risk taking. The resource addresses the learning outcomes for the Year 11/12 English curriculum in NSW and was distributed to all NSW senior schools. English teachers received professional development on this program as well as a personal copy of the resource for use with their students

      The second resource targeting Year 10 and 11 students, *Limiting risks, protecting lives - Choices for novice drivers and their passengers*, provides interactive activities to challenge student's attitudes to driving and road user behaviour and promote deeper thinking and better decision making about road safety by students as drivers and passengers. This was distributed through teacher professional development sessions to all NSW secondary schools.

      Driving is not taught in schools as part of the NSW School Road Safety Education Program.

15. **Examples of web based educational resources are also provided in the submission (p47)**
    - **Has any evaluation of the effectiveness of the websites, particularly the RMS GEARED website, been undertaken?**

      The Geared website was launched in 2008 to replace a magazine of the same name. It aims to advise young people (15-20 years) how to obtain their licence and become safe and competent drivers. It is a guide to all things about cars, licences and driving, covering issues such as buying and maintaining cars, getting and keeping licences and safe driving and leisure.

      Customer research was completed in 2011 and 2012 among young drivers (and potential drivers) aged 15 to 20 years old, who either currently held a NSW drivers licence, or intend to obtain a NSW drivers licence in the next 12 months. The research found the Geared website is perceived very positively by both non-users and users. Participants believed it was a good idea to have a website aimed at young drivers. For many, the website exceeded their expectations in terms of content and relevance to people learning to drive. However, the research also indicated increased promotion of the site would increase the awareness and visitation within the core audience. Anecdotal feedback also shows the site is influential and appreciated by parents and community groups.

      The Geared website statistics for the last 12 month show the site was visited 337,744 times including 160,573 unique visitors. The site also had a 58 per cent return visitor rate which is considered very high. A high percentage of return visits indicates the website is holding visitors' attention and that visitors are well engaged with the site and its content.

16. **The submission from the Department of Planning and Infrastructure outlines the role of the Department and Minister in land use planning, including the location of roads and associated infrastructure (p1).**
    - **Can you clarify for the Committee the respective roles of your Department and the RMS in assessing the driver and road safety impacts of infrastructure proposals as part of the requirements of the Environmental Planning and Assessment Act?**
    - **Does road side infrastructure include speed advisory signage and other official messaging on roads?**

      Speed advisory signage and other official traffic signs and traffic control devices are not considered to be a distraction. Driver attention to these devices is a necessary part of the driving task.

      Transport for NSW has referred the Staysafe Committee Secretariat to the Department of Planning and Infrastructure for the other aspects of this question.

17. **State Environmental Planning Policies and individual local government development controls guide planning policies in relation to outdoor advertising and the Minister for Planning has a consent role in relation to external visual displays and signs to ensure safety (p1).**
    - **Can you elaborate on the matters taken into account as part of the consent process to ensure that drivers will not be unduly distracted by such signage?**

      Transport for NSW has referred the Staysafe Committee Secretariat to the Department of Planning and Infrastructure with respect to this question.

f) Any other related matters

18. The submission states that the placement of roadside advertising "could be a potential emerging issue" and makes reference to the possible use of electronic roadside advertising (p42).

- **Can you provide more information on work being undertaken to investigate the impact of roadside advertising on road safety?**

Transport for NSW, Roads and Maritime Services, and the Outdoor Media Association have discussed the prospect of conducting a trial to explore the relationship between drivers' viewing behaviours at roadside advertising signs and their driving performance.

Please refer to the response to question 4 above for more information about this matter.

19. The submission discusses the impact of distraction on vulnerable road users, including pedestrians and cyclists and makes specific reference to younger and older pedestrians and crossing behaviour (pp42-44).

- **Is there any preliminary data on the involvement of mobile devices by age category in the increased number of pedestrian fatalities to date? Are you aware of any significant age related trends in this regard?**

The data does not suggest that distraction by mobile devices is a significant factor in the recent increase in pedestrian fatalities in 2012.

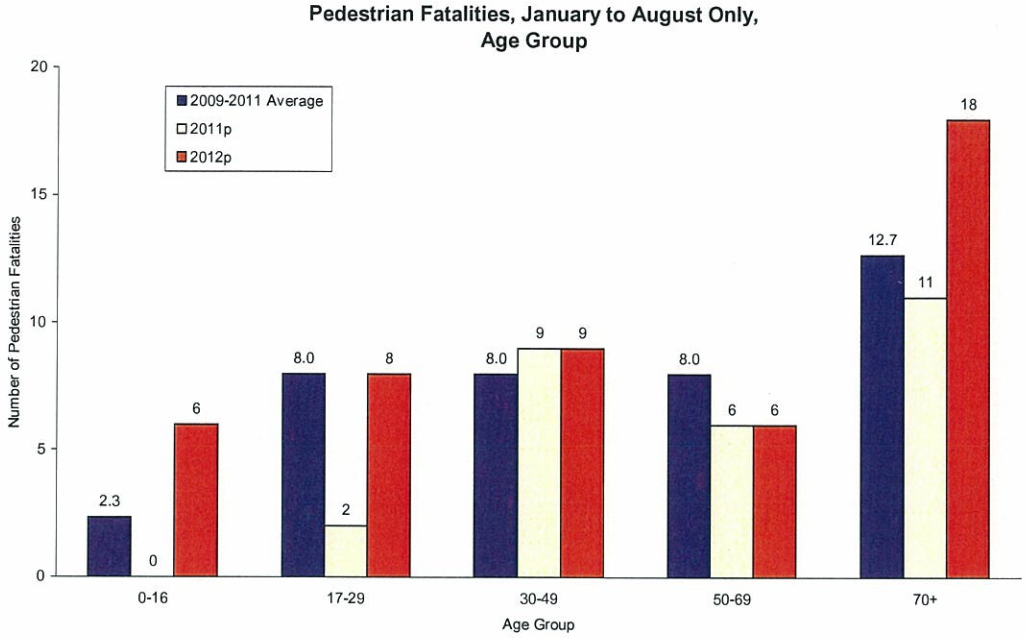
The NSW Centre for Road Safety running sheet for road fatalities in NSW up to midnight 31 August showed that there had been 263 road fatalities so far this year, 28 more fatalities than for the same period in 2011 but four fewer fatalities than the three year average for the same period in 2009 to 2011.

So far this year there have been 47 pedestrian fatalities, 19 more fatalities than for the same period in 2011 and eight more fatalities than the three year average for the same period in 2009 to 2011. Up to this year, the pedestrian fatality totals from 2008 onwards had been at the lowest levels since annual pedestrian fatality totals were first collated in 1928.

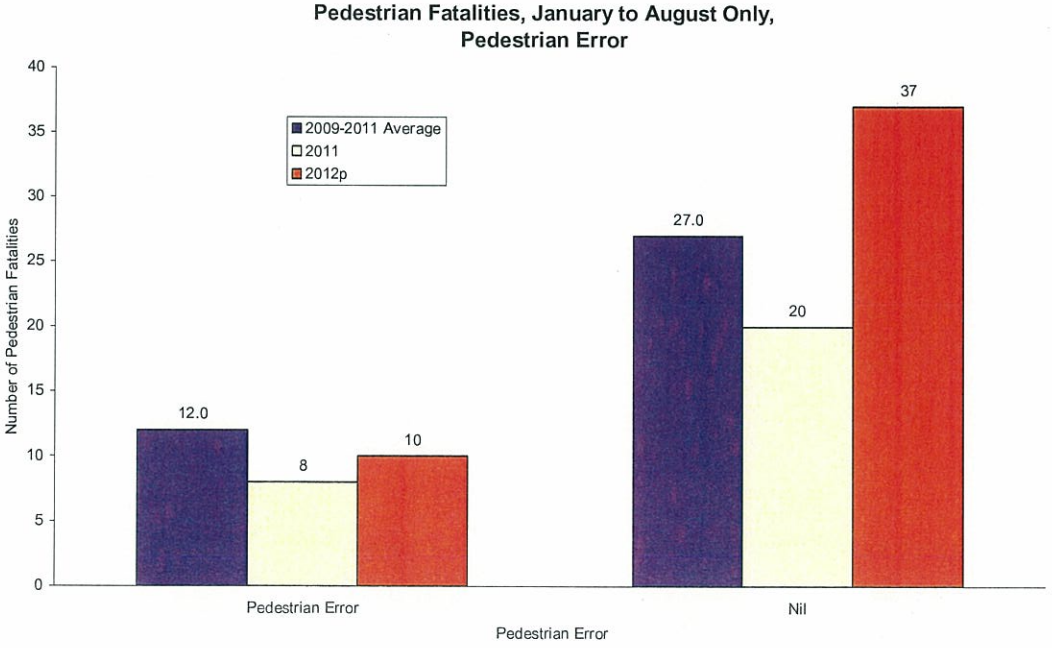
The elderly age group continues to be over-represented amongst pedestrian fatalities. The number of elderly pedestrian fatalities aged 70 years or more remains high with 18 fatalities so far this year (38% of all pedestrian fatalities), seven more fatalities than 2011. The elderly age group accounts for only 10 per cent of the NSW resident population.

A notable result is the increase for children aged under 17 years in 2012, generally an age group not highly involved as pedestrian fatalities. Over the last three calendar years (2009 to 2011) children aged under 17 years have accounted for only 5 per cent of pedestrian fatalities. However, so far this year, 6 of the 47 pedestrian fatalities (13%) were aged under 17 years, up by 6 on the 2011 figures. Also worth noting is that the 17 to 29 year old age group is up by 6 on the 2011 figures.

The following chart shows pedestrian fatalities for the 1 January to 31 August period by age group for this year, last year and the three year average.



The increase in pedestrian fatalities in 2012 is not related to an increase in errors by pedestrians. The following chart shows pedestrian fatalities for the 1 January to 31 August period by error for pedestrian.



Since 2010 there have been at least two pedestrian fatalities where the pedestrian was distracted by talking on a mobile phone – one fatality occurred in 2010 and one occurred in 2011 (preliminary).

Use of portable music devices is not directly coded as a specific category of distraction. They are included in the "other distraction factor" and can only be identified if the device is mentioned in the Police narrative. Since 2010 there have been at least two pedestrian fatalities where the pedestrian was described as using a portable music device (iPod, earphones). One fatality occurred in 2010 and one occurred in 2011 (preliminary).

However, caution is needed when interpreting these results due to the difficulties for the Police in accurately identifying the usage of hand held phones or music devices as possible distractions for a pedestrian fatality.

20. **The submission also details targeted educational and campaign activities focussing on specific road user groups.**
    - **Can you elaborate on your more recent initiatives to alert pedestrians and cyclists to the dangers of distraction as a safety risk?**

    Transport for NSW's priority is to develop a new distraction campaign with a focus on mobile phone use. Further, Transport for NSW is developing a further campaign about the importance of sharing the road safely. It is anticipated that this campaign will include messages that address distraction to pedestrians and cyclists.

NSW GOVERNMENT Attorney General & Justice

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Mr Bjarne Nordin
Inquiry Manager
Joint Standing Committee on Road Safety (Staysafe)
Parliament of NSW
Macquarie Street
SYDNEY NSW 2000

Our Ref: 12/005448

Dear Mr Nordin

Thank you for your letter of 29 August 2012, enclosing a transcript of the evidence I gave to the Staysafe committee inquiry into driver and road user distraction on 17 August 2012.

I have reviewed the transcript and have noted two inaccuracies. I attach the relevant page with both inaccuracies corrected.

Further, while giving evidence I requested that two questions be taken on notice. My answers to these questions are as follows:

1. Do you think the $265 fine is a deterrent for people using mobile phones in their cars?

If prosecuted by way of a penalty notice, the offence of using a mobile phone while driving pursuant to Rule 300 of the *Road Rules 2008* attracts a fine of $298 and 3 demerit points (or $397 and 4 demerit points if committed in a school zone). If the matter proceeds to court it carries a maximum penalty of 20 penalty units ($2200 fine). I note that the same maximum penalty applies to the vast majority of offences under the *Road Rules*.

The offence under Rule 300 is not the only offence that can apply to circumstances where a driver uses a mobile phone while driving. Where the usage of the phone has an adverse impact on the person's driving, other more serious offences can apply. In assessing what deterrent exists for driving while using a mobile phone, these additional offences should be considered.

If the driver's usage of the phone causes them to drive in a manner which is negligent, reckless or dangerous, they can be charged with one of the following offences (depending on the seriousness of their driving conduct):

- Negligent driving - section 42(1) of the *Road Transport (Safety and Traffic Management) Act 1999* ("**the Act**"). This offence carries a maximum penalty of 10 penalty units ($1,100 fine).
- Driving in a manner reckless or dangerous - section 42(2) of the Act. A first offence carries a maximum penalty of 9 months imprisonment and/or 20 penalty units ($2,200 fine). A second or subsequent offence carries a maximum penalty of 12 months imprisonment and/or 30 penalty units ($3,300 fine).

If as a result of the offender's driving, another person is injured or killed they may be charged with one of the following offences:

- Negligent driving occasioning grievous bodily harm or death - section 42(1) of the Act. If the driving occasions grievous bodily harm, a first offence carries a maximum penalty of 9 months imprisonment and/or 20 penalty units ($2,200 fine). A second or subsequent offence carries a maximum penalty of 12 months imprisonment and/or 30 penalty units ($3,300 fine). If the driving occasions death, a first offence carries a maximum penalty of 18 months imprisonment and/or 30 penalty units ($3,300 fine). A second or subsequent offence carries a maximum penalty of 2 years imprisonment and/or 50 penalty units ($5,500 fine).
- Dangerous driving occasioning grievous bodily harm or death - section 52A of the *Crimes Act 1900.* These offences carry substantial maximum penalties of 7 years imprisonment if grievous bodily harm is occasioned and 10 years imprisonment if death is occasioned.

Depending on the outcome, all of the abovementioned offences could apply to a driver who uses a mobile phone while driving and all operate as a deterrent to this type of behaviour.

2. Ms Musgrave, what do you think of the New Jersey offence of dangerous walking?

In May 2012, police in New Jersey, USA, began a crackdown on people jaywalking while texting on a mobile phone, issuing $85 on the spot fines. Contrary to media reports at the time, these fines are not being issued simply for walking while texting, rather the person must be "jaywalking". I understand that no new offences were created, rather New Jersey police have been relying on existing jaywalking offence provisions to prosecute these persons.

Jaywalking generally involves crossing a road in a manner which is reckless or dangerous. The fact that a person is texting on a phone at the time would likely go to the question of whether they are crossing the street in a reckless or dangerous fashion.

New South Wales has offences which apply to circumstances akin to jaywalking. Part 14 of the *Road Rules 2008* includes the following offences:

Rule 230 - Crossing a road – general

1. A pedestrian crossing a road:
(a) must cross by the shortest safe route, and
(b) must not stay on the road longer than necessary to cross the road safely.

Rule 236 - Pedestrians not to cause a traffic hazard or obstruction

1. *A pedestrian must not cause a traffic hazard by moving into the path of a driver.*
2. *A pedestrian must not unreasonably obstruct the path of any driver or another pedestrian.*

Rule 238 - Pedestrians travelling along a road

1. *A pedestrian must not travel along a road if there is a footpath or nature strip adjacent to the road, unless it is impracticable to travel on the footpath or nature strip.*

These offences carry a maximum penalty of 20 penalty units ($2,200 fine). They are designed to deter pedestrians from engaging in behaviour which would put them in danger while crossing or travelling on a road. It is possible that a pedestrian who is texting could be captured by these offence provisions if, as a result of the distraction, they engage in the abovementioned behaviour.

I hope the above is of assistance.

Yours sincerely

Penny Musgrave
Director
Criminal Law Review

NSW GOVERNMENT Education & Communities

Public Schools NSW

No 3 --- Figures as requested by Mr Robert Furolo

How much funding has been provided by the Centre for Road Safety for the schools road safety program?
The *Funding Agreement to Support the Delivery of Road Safety Education in Schools 2011 – 2013* between the Department of Education and Communities and Transport for NSW (former Roads and Traffic Authority) states that:
The Roads and Traffic Authority will make a payment of $1M (exclusive of GST in two instalments of $500K) each year to the Department of Education and Communities for three years from 2011 – 2013.
The breakdown of payments to the Department is:

2013 - $1 000 000 excluding GST (invoiced and to be received)
2012 - $1 000 000 excluding GST received
2011 - $1 000 000 excluding GST received

Prior to 2011 the breakdown of funding to the Department was:

2010 - $980 000 excluding GST
2009 - $980 000 excluding GST
2008 - $980 000 excluding GST plus additional $700 000 excluding GST
2007 - $980 000 excluding GST
2006 - $980 000 excluding GST

The Centre for Road Safety also funds the Association of Independent Schools and Catholic Education Commission as part of the schools program.
Any consideration of future funding will be undertaken in 2013.

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