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Victoria’s unique approach to road safety: A history of government regulation
Abstract

Victoria has a record of proactive and determined legislative action addressing road safety, and the state’s processes and deliberations concerning the introduction of road safety laws serve as a noteworthy case study of political rationality and public policy development. In this article I explore the history of the rationales and forms of political reasoning underpinning the state’s unique and pioneering approach to traffic regulation. Using the seatbelt and handheld phone laws as an example, I argue that the differences in approaches between governments are partly due to the interaction of the political imperatives of state institutions imposing regulations for the public good and the protection of individual liberties. Understanding some of the political dynamics involved in decisions about regulatory options helps explain why Victoria’s approach has differed in significant ways from that of other jurisdictions.
Victoria’s unique approach to road safety:

A history of government regulation

Laws and regulations are commonly adopted in order to encourage and reinforce safe driving practices and modify driver behaviour. Their development, introduction and implementation, however, is not always a clear-cut, linear or rational process, and there is an often complicated trade-off between the personal freedom afforded by the car, and regulatory interventions that aim to reduce crashes and promote safe driving. ‘The social goals of maximising mobility and maximising safety’, says Johnston, ‘are frequently in conflict’. This political balancing act is handled in various ways by different countries and between the Australian states and territories. In general, Victoria has a record of proactive and determined legislative action addressing road safety, being the first jurisdiction in the world to introduce compulsory wearing of crash helmets for motorcyclists (1961), compulsory wearing of seatbelts (1970) and random blood alcohol tests (1976). Other countries have taken a different approach, focusing more on education and self-regulation.

In this article I explore the history of political reasoning underpinning Victoria’s unique approach to traffic regulation. Focusing on seatbelt and handheld phone laws as-examples, I argue that the balance of freedom and security, individual rights and

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1 This article is adapted from the author’s PhD thesis, Motor Telephony: The Practices and Problems of Regulating Mobile Telephony and Driving (Swinburne University of Technology, Melbourne, 2007).
3 P. Joubert, Development and Effects of Seat Belt Laws in Australia (Department of Mechanical Engineering, University of Melbourne, 1979); Graeme Davison, Car Wars: How the Car Won Our Hearts and Conquered Our Cities (Sydney, 2004).
the wider public good is a core problem of liberal governance. The technology of the car amplifies the tension between personal freedom and public danger in a way that gives these interactions a special character and significance. The desire to secure and encourage public safety on the roads competes with the privacy associated with the car, state regulation is held in balance with personal responsibility, and the common public good is tempered according to individual rights.

The development and use of both phones and cars have been framed by governments at every level. They have supported, fostered and funded mobile telephony (for example, allocating frequency spectrum and providing financial incentives) and the car industry (for example, building roads and supporting manufacturers), in turn encouraging the widespread adoption and use of both of these technologies. At the same time, emerging empirical data, along with accidents associated with operating a mobile phone while driving, have raised concerns over the broader impact on traffic safety. In this context, governments have a duty to protect citizens from harm. Goggin alludes to such a tension: ‘governments have had to manage a number of conflicting roles and perspectives on technology, reflecting different views and interests of sections of the populace as well as different ministries’\(^4\) (2006, p. 113).

A variety of social policy responses have been proposed, debated, rejected and implemented in terms of addressing the adverse effects of mobile phone use in the car, as well as seat belt restrictions. These include legislation, fines and penalties, along with appeals to personal, social, moral and ethical responsibility. This paper

considers some of the political rationales and debates which have influenced the legal strategies adopted by jurisdictions in Australia and elsewhere in the world. Investigating these influences highlights the distinctiveness of Victoria’s approach.

**Motorists’ rights and the public good**

The tension between regulation and personal liberty has pragmatic and political dimensions. Logistically, the police’s ability to enforce legislation is often beset by practical, financial and time restraints. Ideologically, broader arguments centre on the encroachment on a motorist’s right to drive, and the activities which they may undertake while doing so. Notions of the ‘freedom of the road’ and ‘freedom to drive’ have become popular and, as drivers spend more time in their cars, manufacturers are using information technology ‘to extend the electronic environment of the home and office to the automobile’.\(^5\) Much like the mobile phone, cars have been conceptualised as personal objects: an ‘extension of the driver’s body’, a ‘mobile semi-privatised capsule’, a mobile workplace or office and a home on wheels.\(^6\) Advertisements make the point well: Ford declared their 1949 model to be ‘a living room on wheels’ and, in

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the 1990s, Mazda promised that drivers could take their ‘home comforts out on the road’, claiming that the car ‘resemble[s] a living room’.

Such representations highlight the privacy associated with the car. Describing it as a ‘private cave of autonomous comforts’, Brandon suggests that ‘our perception of “car space” is related to “personal space”, a zone extending a few feet around our bodies which we feel we own, and whose invasion we resent’. Linking this to political ideology, the automobile has been aligned with liberal ideals of individualism and privacy, ‘self-determination and prosperity’, personal liberty, and autonomy, freedom and a ‘self-directed life’. From this perspective, any moves to regulate motorists’ behaviour could be seen as an attack on their freedoms, rights and personal space. This view is typified by Mark Maddox, a member of the Tennessee House of Representatives. Responding to a bill to regulate cell phone use which was almost unanimously opposed (seventeen votes to two), he expressed ‘concern…that the

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government should not be involved in our driving’. 11 As an editorial in a Boston paper stated:

Opponents to similar bills in other states have argued that using your cell phone when you’re driving is a matter of personal freedom. ‘The government shouldn’t have any say in what I do in the privacy of my home,’ the reasoning goes. ‘Why should it have any say in what I do in the privacy of my automobile?’ 12

This reveals an important juxtaposition between the car as a personal space and its use on public roads (which are subject to state control). Packer articulates this well in his article on governing mobile communications (his specific focus is on CB radio and truck drivers):

By producing a set of circumscribed and discursively legitimated forms of conduct and then allowing citizens to freely roam within those parameters, governing at a distance is insured. Truckers are free to drive [al]most anywhere in the US and to do so under the rubric of capitalist free-enterprise, for instance, but always within very specific parameters: at specified speeds, on legal roads, when sober, at certain ages, with proper licenses, and carrying certain commodities. This freedom to be mobile is circumscribed, but it is also

what puts independent truckers on the road. It is both invitation and limit. It is in other ways a responsibility.¹³

Motorists are free to use the roads, but within limits: in Packer’s terms, such ‘freedom’ is ‘circumscribed’. People often feel comfortable inside their vehicles which are places to eat, watch movies, have sex, put on make-up, to name a few activities. At the same time, drivers are legally restricted in terms of how they can use their bodies within the car. Not being able to make calls on a hand-held phone is one example. Police also have the power to request breath tests and, if necessary, take blood samples if drivers are over the legal limit. Roadside drug testing, recently introduced in Victoria, further illustrates this trend. This raises intriguing and complex questions concerning the relationship between driving and liberal governance: How far can, or should, the government go in monitoring motorists’ actions in order to ensure safer roads? To what degree should individual rights be sacrificed for the common good?

Traditionally Victoria has been inclined to regulate at the expense of personal liberty. Traces of this paradigm can be found in the liberal tradition of colonial Victoria. Macintyre documents how initially the state sought to protect the freedom of autonomous, self-sufficient individuals who were assumed to exercise the capacities of ‘reason and moral responsibility’.¹⁴ Yet there arose a tension between the broader interests of society and the defence of personal freedom and privacy. The debates in

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the 1850s relating to alcohol abuse provide an apt example of this conflict. Around this time certain groups wanted to restrict the sale of liquor (this came to be known as the temperance movement). George Higinbotham, seen by Macintyre as a pivotal figure in the second half of the nineteenth century, contended that this proposal was an ‘act by which society consented to impose a legal restraint upon itself in order to arrest a dangerous and growing evil’, facilitating ‘a mutual compact for the surrender of abstract rights for a common public good’. The political implication was a willingness to ‘interfere with the liberty of the individual’ in order to secure the ‘welfare of society’ Charles Pearson, a liberal contemporary of Higinbotham, encouraged others to ‘not be afraid’ of using legislation as a means of securing the wellbeing of society, which for Pearson meant enabling a person to uphold a ‘duty to himself, to his family, and to the community’.15

Subsequent Victorian governments have been guided by a similar rationale in relation to driving, with a willingness to place restrictions on drivers for the sake of the greater good. Although restrictions that came about as a result of seatbelt laws and random breath testing were seen by some as an ‘attack on personal liberties’,16 the reduction in death and injury has been used as a justification of the measures. John Birrell, the Victoria Police Surgeon, staunchly advocated and promoted the compulsory testing of drivers’ blood alcohol content. His evidence to a Senate Select Committee on Road Safety exemplifies the state’s approach: ‘While the growing trend towards submerging personal rights might be regarded with disfavour in many quarters it appears completely justifiable in such an important instance as this’.17

15 Ibid., pp. 195-6.
17 Davison, Car Wars, p. 159.
Deliberations around seatbelt laws also included objections on the grounds that compulsion was an infringement of personal liberty and freedom. In opposing the contention that seatbelt wearing should be a matter of choice, the Joint Select Committee on Road Safety found that ‘there should not be compromise with death and injury where motor vehicle accidents are concerned’ (1969: 9).\textsuperscript{18} Joubert countered the resistance to compulsory crash helmet wearing in the same way:

complete personal freedom is virtually non-existent in any society…all life involves compromise and some degree of restraint on the part of individuals. Speed limits curtail a driver’s freedom…The prevention of critical injuries and the consequent burden of the injured on society is sufficient reason for forcing the wearing of motor cycle crash helmets.\textsuperscript{19}

This style of reasoning is still relevant today. When Eric Howard (who was a significant contributor to road safety both in Victoria and internationally) retired in 2005 he responded to the Road Safety Committee’s acknowledgement of his work by referring to a former chairman of the committee who said words ‘to the effect that sometimes difficult decisions have to be made in the community’s interest that impact the freedom of individuals’.\textsuperscript{20} Davison has noted the effects of this approach:

\begin{flushright}
\textsuperscript{18} Joint Select Committee on Road Safety, \textit{Report Upon an Investigation into the Desirability of the Compulsory Fitting and the Compulsory Wearing of Seat Belts} (Legislative Council, Parliament of Victoria, Melbourne, 1969).
\end{flushright}
Probably nowhere else in the world was the conduct of the individual motorist more closely monitored or more rigorously controlled [than in Melbourne]. Yet, with only occasional grumblings, motorists overwhelmingly accepted these measures. Their acceptance attests to the enduring strength of the progressive utilitarianism that had once made Victoria a famous social laboratory. It also shows how much privacy, money and personal independence we are prepared to surrender in order to preserve that most cherished and illusory of our liberties, the freedom of the road.21

While this may appear a balanced or straightforward trade-off, in reality the relationship between state regulation and personal responsibility remains a hard one to negotiate. As Mr Howard’s comment suggests, it is one that involves ‘difficult decisions’. As an example, the current Labor government in Victoria has faced criticism for introducing too many regulations, with some claiming it has attempted to ‘micro-manage’ people’s lives at the expense ‘of personal discretion and responsibility’. While former State and Regional Development Minister John Brumby asserted that ‘Labor governments are more conscious of the public good…and often the best way of doing that – not always, but often – is through regulation’, he conceded that discerning what to regulate and what to leave alone is not easy: ‘it’s always difficult, particularly when safety is involved. Governments have got a responsibility to try to protect community safety and try and enhance the health and wellbeing of the community’.22

21 Davison, Car Wars, p. 167.
As argued here, Victoria (and Australia more generally) has been more proactive than other jurisdictions in introducing legal measures to tackle road safety issues. This provides a telling illustration of how Australia has emphasised state regulation. In political terms, the United States has traditionally held individual rights in higher regard than Australia. According to Costar, ‘rights have never occupied a privileged place in Australia’s political culture’ (symbolised by the absence of a Bill of Rights), whereas in the United States the Bill of Rights’ purpose was to protect people ‘by ensuring that a democracy would not infringe individual rights’. As a result, citizens have come to regard such rights as ‘the highest political good’. These differences in political reasoning have influenced road safety policies in a real and observable manner.

Seatbelt laws in Australia

The seatbelt law typifies the Victorian approach to regulation via legislative measures. By 1970 the road toll in Australia had reached critical levels, with a record 3,798 motorists losing their lives in that year. In 1967 the Victorian parliament set up a Joint Select Committee on Road Safety, the purpose of which was to consider specific countermeasures that could reduce road accidents. After considering vehicle roadworthiness and demerit points, its attention turned to the compulsory wearing of seatbelts. In 1969 a committee report indicated a clear preference for immediate legislation, recommending ‘all occupants of motor vehicles should ultimately be

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24 Joubert, *Development and Effects of Seat Belt Laws in Australia*. 
compulsorily required to wear seatbelts’. In November 1970 the government decided to accept the recommendation.

The new laws did not come without resistance. The chairman of the Joint Select Committee felt that although witnesses at the inquiry displayed an ‘almost unanimous awareness…of the value of seat belts…these same witnesses strongly advise[d] against compulsion on the grounds that such legislation was unrealistic, could not be enforced or was an infringement on the liberty of citizens’. Compulsory seatbelt wearing was supported by the Australian Medical Association, the Victoria Police Surgeon and the RACV, and in December 1970 Victoria became the first jurisdiction in the world to legally enforce the mandatory wearing of seatbelts. By 1972 all Australian states had enacted similar laws and the ‘Australian experience…[was] extremely influential’ in setting a precedent and justification for their introduction in other countries, as well as providing data on the effect of legislation on reducing fatalities.

In contrast, the United States and United Kingdom both took until the 1980s to introduce mandatory seatbelt laws, more than a decade later than Victoria. One comparison of five countries’ experience of such laws points out that eight attempts in the United Kingdom at passing mandatory laws had been unsuccessful and ‘opponents of the law were mainly concerned about the perceived loss of individual freedom, as has been true in the United States’. In the United States, one significant

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25 Joint Select Committee on Road Safety, Report, p. 11.
factor delaying the introduction of seatbelt laws was a controversy about whether to use automatic restraint systems (such as airbags) or optional systems (such as seatbelts). This was not merely a disagreement over which technology was superior, but represented a ‘basic philosophical [issue] concerning individual versus government responsibility for assuring reasonable public safety’. Supporters of automatic systems argued ‘the national character in the United States makes it unlikely that seatbelt use can be increased to the necessary levels through laws’. Presumably this national character reflected citizens’ desire to maintain a degree of choice. The debate divided opinion and effectively stalled the implementation of either approach. Eventually the use of both approaches was considered a realistic option, paving the way for the introduction of mandatory wearing laws from the mid-1980s.

Having outlined different approaches to road safety measures in Australia and overseas, the remainder of this article will trace how Victoria has continued a tradition of (comparatively) early and proactive legislation in relation to phone use in cars.

**Phoning and driving legislation in Victoria**

Laws relating to phone use in cars are primarily found in the Victorian road rules and regulations, which are statutory instruments made pursuant to the broader Road Safety Acts. While Acts provide overarching principles (for example, two of the purposes of the 1986 Road Safety Act are to provide for safe, efficient and equitable road use and to set out general obligations in relation to responsible road use), the regulations are the rules which are made in order to achieve the objectives laid out in the Act. After a
brief outline of the formulation of Victoria’s Motor Car Acts, I will explore the regulations which have been introduced relating to in-car phone use.

The first proposed Motor Car Bill of the early 1900s was defeated due to its severe restrictions on drivers and the opposition of motorists; the RACV legal committee ‘fought the harsh and drastic provisions…to such good effect that it was subsequently shelved by the then Premier’.28 The Motor Car Act was eventually passed in 1909. It covered vehicle registration and licensing of drivers, as well as offences relating to reckless driving and driving under the influence of ‘intoxicating liquors’. Accompanying regulations came into effect shortly afterwards and contained rules ‘designed to implement the general provisions of the Act’.

Within 42 years there were 20 Acts relating to motor vehicles, and as a result a Bill was introduced in November 1951 to consolidate ‘the whole of the statute law comprised in the Motor Car Acts’. Andrew Garran, the acting parliamentary draftsman, commented that ‘part of the legislation goes back to the days of the horse and buggy, and this is the third attempt that has been made to prepare a consolidation’.30 The new Motor Car Act 1951 passed through parliament with little resistance, coming into effect the following February.

One month later, a list of proposed revisions to the Act’s regulations was circulated to relevant organisations for their comments. Additions to existing regulations included prohibiting the use of ‘a radio telephone, microphone or other similar instrument’

while driving.\textsuperscript{31} The \textit{Motor Car Regulations 1952} were tabled, passed and became operational at the start of 1953, with Regulation 193 stating:

Except with the approval of the Chief Commissioner the driver of a motor car shall not while the motor car is in motion use any telephone microphone or any other similar instrument or apparatus in such motor car.

Although it is hard to trace the rationale behind the inclusion of this clause, it was significant enough to gain coverage in \textit{Radiator}, first with the notification of the new draft regulations and again after they were passed into law.\textsuperscript{32} Given that the number of clauses rose considerably (the new regulations contained approximately two and a half times the previous number), it is noteworthy that this stipulation was included in the magazine’s coverage of the changes.

Around the time these regulations were drafted, the RACV began to use radio telephones in its roadside assistance vehicles. \textit{Radiator} pointed out that although each car had a distinctive call number and there was no difficulty in establishing communication with a moving or stationary patrol vehicle, it was ‘obligatory…on being “buzzed”, to pull into the side of the road and stop [the] car as the use of the wireless telephone for a two-way conversation is forbidden when the vehicle is in motion’, based on ‘the interests of road safety’.\textsuperscript{33} This suggests an awareness of the potential dangers associated with operating in-car telephones, and it may be that the inclusion of this clause was due in part to an awareness (or prediction) that the

\textsuperscript{33} “Golden Jubilee 1903-1953: 50 Years of Service to the Motorist”, \textit{Radiator}, May 1953 (souvenir issue), pp. 45-6, 48.
deployment and use of similar devices in private cars could have an effect on road safety. At any rate, this wording of the law remained virtually the same – ‘the Chief Commissioner’ was replaced by ‘the Authority’ by 1984 – up until the mid-1980s (see Regulation 715 of the *Motor Car Regulations 1984*).

Although these laws had been in existence for over three decades, Victoria is often credited as the first major jurisdiction in the world to specifically ban hand-held phone use in cars in 1988. Regulation 1505 of the *Road Safety (Vehicles) Regulations 1988* stipulates that:

1. Except with the approval of the Road Traffic Authority and as provided by sub-regulation (2), the driver of a motor vehicle must not, while driving the vehicle, use a hand held—
   1. a. telephone
   2. b. microphone
   3. c. similar instrument or apparatus –
      in the vehicle.
2. Sub-regulation (1) does not apply to the driver of a vehicle that can be used as an emergency vehicle.

Again, it is hard to determine why this clause was introduced. According to Victoria’s Director of Road Safety at the time, there was no apparent debate or major discussion.

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around the issue.\textsuperscript{35} In contrast to the additions to the \textit{Motor Car Regulations 1952}, where the clause relating to in-car telephone use received coverage, when the changes came into effect in 1988 a comparable article in the RACV’s \textit{RoyalAuto} entitled ‘New road laws – do you know them?’ did not refer to phone use.\textsuperscript{36}

Up until this point, the regulation was in practice limited to a small number of people using two-way radios and was a rarely or prosecuted offence. As mobile telephony grew in popularity during the 1990s, phone use in cars became much more common. In turn, activity and discussion began to centre on enforcement and penalties associated with the regulation. A Victorian parliamentary Road Safety Committee report into the demerit point scheme warned that the ‘rapid expansion of car and mobile telephones has created a new situation and there is growing community concern about the road safety implications’, subsequently recommending that using a hand-held device incur a fine as well as three demerit points.\textsuperscript{37} Demerit points were introduced eight years later in 2002.

\textbf{A process of negotiation}

At this point it is worth noting that while the interaction of the political imperatives of state institutions imposing regulations for the public good and the protection of individual liberties suggests a mannered and orderly process for introducing legislation, the process of passing and implementing such measures has been

\textsuperscript{35} Email from Professor I. Johnston, Director, Monash University Accident Research Centre, 6 Sept. 2005.
accompanied by much debate. An array of groups with sectional interests have been involved in deliberations concerning the regulation of mobile phones, each seeking to influence legislative outcomes in different ways.

The network of negotiation around how mobiles are, can be or should be used (in moving vehicles) involves a diverse set of actors with different vested interests and motivations. Jepson has developed the concept of *regulatory space* to describe the range of actors involved in the regulation of motor telephony, and how these people, groups and social institutions have had positive and negative effects in regard to driver behaviour.\(^{38}\) Table 1, adapted from Jepson’s presentation, shows the main players in the network of negotiation and the roles they play in the policy arena where regulatory options are debated and decided upon.

**Table 1: Summary of the network of actors and their role in regulating drivers’ use of mobile phones**

<table>
<thead>
<tr>
<th>Actors</th>
<th>Area of potential harm</th>
<th>Positive measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Driving public</td>
<td>Over-confidence</td>
<td>Lobby government to change regulations, increase fines and penalties</td>
</tr>
<tr>
<td></td>
<td>Lack of knowledge or inaccurate perceptions of risks</td>
<td></td>
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<tr>
<td></td>
<td>Social and work pressures to use mobile phones while driving</td>
<td></td>
</tr>
<tr>
<td>Vehicle and mobile phone</td>
<td>Car designs may not be sympathetic to safe driving practices</td>
<td>Establish a code of practice for design</td>
</tr>
<tr>
<td>manufacturers</td>
<td>Vested interest in drivers making calls</td>
<td>Enforced liability for non-compliance</td>
</tr>
<tr>
<td>Employers</td>
<td>Many work-related demands on driver</td>
<td>Using OH&amp;S provisions to ensure employer responsibility</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Actor</th>
<th>Little responsibility of employer for safe driving practices</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Peak road safety bodies</strong></td>
<td>Exert minimal influence or enforceable control over driver behaviour</td>
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<tr>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Vehicle and mobile phone retailers</strong></td>
<td>Minimal direct interest in driver safety</td>
</tr>
<tr>
<td></td>
<td>Vested interest in drivers making calls</td>
</tr>
<tr>
<td><strong>Regulatory authorities (government)</strong></td>
<td>Ineffective enforcement capabilities</td>
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<tr>
<td></td>
<td>Piecemeal approach</td>
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<tr>
<td><strong>Police</strong></td>
<td>Inability to enforce laws properly</td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td><strong>Media</strong></td>
<td>Tendency to sensationalise issue</td>
</tr>
<tr>
<td><strong>Academic and research institutions</strong></td>
<td>Research findings have potentially limited applicability to real-world practices</td>
</tr>
<tr>
<td><strong>Courts, judicial system</strong></td>
<td>Penalties may be perceived as too lenient</td>
</tr>
<tr>
<td></td>
<td>Difficulty in proving driver culpability</td>
</tr>
</tbody>
</table>

As this table indicates, there is a diverse range of actors involved in this network, and their areas of control (or, perhaps more accurately, spheres of influence) highlight the different roles that each plays in the process of negotiating policy approaches. It also shows that each group’s influence is limited in various ways. Some are more active in their engagement with the policy debates (such as governments, the driving public,
police, the media and peak road safety bodies), whereas others maintain a more passive role (such as the judicial and coronial systems and the vehicle manufacturing industry).

In describing the emergence of this new regulatory domain around motor telephony, the divergent views concerning the most appropriate regulatory strategies amongst the stakeholders in the network of negotiation can be observed. As Barry put it, ‘different administrations have different political cultures and priorities, and different ways of deploying and drawing together the claims of different forms of scientific expertise’.39 Victoria, a proactive jurisdiction in terms of enacting laws and regulations governing the use of mobile phones in cars, has placed a strong emphasis on state-based mechanisms in order to address phone use (for example, laws, police enforcement, penalties and fines). Other jurisdictions, such as the United States, prefer to leave primary responsibility in the hands of drivers (for example, promoting education campaigns).

Conclusion

This article highlights some of the historical and political dimensions of Victoria’s approach to road safety policy. We see that arguments based on appeals to the public good, or individual liberties, tend to come from governments and particular social institutions, each with their own interests and motivations. The concepts of personal freedom and state regulation (via laws and regulations) have been drawn upon by countries (and certain organisations) in different ways to support their position.

Australia has been more willing to use state intervention as a means of protecting the public good, whereas in the United States the defence of individual rights has meant that legislative measures have failed to gain widespread approval. This difference in political rationales is but one part of the picture: pragmatic considerations (such as the enforceability of regulations and the lack of reliable empirical data) have also been drawn upon to cast doubt on the usefulness of legal intervention. In this regard, the process is not necessarily a rational one of balancing liberty and regulation within liberal terms, but a practical one that seeks pragmatic outcomes.

Although it can be said that Victoria has pioneered the enactment of road regulations in a number of areas (including telephone use in vehicles) and that this tendency to embrace legislation has been informed by a particular political tradition, the process of making policy decisions has not been entirely straightforward, logical or linear. The legislative response to mobile phone use while driving has been dealt with in a piecemeal manner in negotiation with public opinion, interest groups and scientific research, and although Victoria has adopted a unique approach in terms of implementing road safety countermeasures, there has been no general philosophical or conceptual reconciliation of these issues. Nevertheless, the state has consistently enacted laws ahead of other jurisdictions, and in this respect has played a pivotal role in the design and implementation of several significant road safety measures.