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Let me take a #Selfie: An analysis of how cycling should respond to the increasing threats posed by exuberant spectators

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Abstract

The nature of road cycling raises a number of specific challenges for organisers, particularly in relation to the close proximity between the riders and spectators during the race. Indeed, in many events, supporters are allowed to mass on the side of the road without any barriers or stewards to stop incidents. However, while this proximity can be highly positive and generates atmosphere and engagement with the sport, it also makes it difficult to ensure the safety of both riders and spectators. This paper will examine this spectator/rider relationship and discuss how reckless behaviour (by both parties) has led to an increased number of incidents, injuries and near-misses. The article will also examine the implications of the recent craze of spectator "selfies" as the riders are coming towards them.

Keywords: *Cycling, Event Management, Risk Management, Security, Selfie, Spectator*

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INTRODUCTION

Every sport has a duty of care towards those involved within the sport, whether that be the players, officials, management or spectators.¹ The nature of road cycling however raises a number of specific challenges, particularly in relation to the close proximity between the riders and spectators during the race. Indeed, in many events, supporters are allowed to mass on the side of the road without any barriers or stewards to stop incidents. However, while this proximity can be highly positive and generates atmosphere and engagement with the sport, it also makes it difficult to ensure the safety of both riders and spectators. This paper will examine this spectator/rider relationship and discuss how reckless behaviour (by both parties) has led to an increased number of incidents, injuries and near-misses. The article will also examine the implications of the recent craze of spectator "selfies" as the riders are coming towards them.

#SELFIES AND 'ASSISTANCE'

It has long been recognised that athletes and sportsmen have a desire to compete which drives them to quasi-reckless behaviour and resultant injuries to fellow competitors and spectators. Indeed, Lord Justice Edmund Davies stated that the standard of care for sports should take into account this desire to win.² Case authority similarly demonstrates that spectators consent to the obvious and inherent risks of the sport.³ At a practical level though, it is interesting to note that statistics would suggest that cyclists pushing too hard and crashing into spectators is rarely a situation that arises during professional cycling events. According to totalprosports.com, only 27 spectators have been killed during the 109 year history of the Tour de France,⁴ a rate of less than a death every 30 years! Instead, arguably it has been the spectators rather than the riders whose behaviour has become increasingly reckless.

On the mountainous stages of the Tour, there are no barriers and the spectators can run alongside the riders as they go up the climbs. While not technically banned by the governing body of cycling (UCI),⁵ the sight of spectators running alongside the rider is something that frustrates the riders and causes them problems. For example, during the 20th stage of the 2014 Giro d'Italia (Tour of Italy), a spectator tried to give Francesco Manuel Bongiorno a helping hand up Monte Zoncolan by pushing him.⁶ Unfortunately, this 'assistance' caused the rider to crash and he was unable to chase back to the winner, Michael Rodgers.



Bongiorno

Driven perhaps by the social media boom, spectators have also been trying to memorialise their presence at the race through an action "selfie" with the riders. What many people however fail to understand is that the athletes are racing at a pace of roughly 45km/h and the camera foreshortens the distance between the rider and the spectator. During the recent 2014 Tour de France Grand depart in Yorkshire, thousands more people

¹ *Condon v. Basi* [1985] 2 All E.R. 453; *Fenton v. Thruxton (BARC) Ltd* (2008) (unreported) (Basingstoke County Court)

² Lord Justice Davies said this as part of the judgement from *Wilks v. Cheltenham home guard motorcycle and light car club* [1971] 1 WLR 668; see also *Wooldridge v. Sumner* [1963] 2 Q.B. 63

³ David Griffith-Jones, *Law and the Business of Sport* (1st published, Butterworth's publishing 1997) 7; *Bolton v. Stone* [1951] A.C. 850

⁴ Statistics provided by www.totalprosports.com and then used by www.accidentclaims.name

⁵ The UCI leaves the organisation in charge of the race to decide the guidelines to be enforced on the spectators. This creates an issue as multiple companies organise the many events, ASO run the Tour de France while the Giro d'Italia is run by RCS Sport.

⁶ Stephen Puddicombe, 'Michael Rodgers wins Giro d'Italia stage to Monte Zoncolan' *Cycling Weekly* (31st May 2014) (online) [<http://www.cyclingweekly.co.uk/racing/giro-ditalia/michael-rogers-wins-giro-ditalia-stage-monte-zoncolan-124880>]

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amassed at the roadside than predicted by the organisers, leaving little room for the race to take place. This led to one of the Team Sky riders (David Lopez) crashing into a spectator stood on the side of the road, during stage three near the Olympic park. Unlike another incident last year, where an elderly pedestrian was hit while standing still in a dangerous position,⁷ it is believed that the fan was taking a photo when the crash happened.⁸ While the fan suffered unknown injuries and Lopez was able to continue the race, his teammate Geraint Thomas called the new selfie craze as: "The latest pain in the arse."⁹ and the American rider Tejay van Garderen of BMC stated on his twitter account that it was: "a dangerous mix of vanity and stupidity."¹⁰ Indeed, in the recent Giro d'Italia, Alberto Contador went even further and took matters into his own hands (quite literally!) when he reached out to pull down a spectator's GoPro camera on a selfie stick from its position above the riders.¹¹



Contador

Incidents between spectators and riders are an unfortunate, but foreseeable part of cycling, even where race organisers have placed barricades between the two groups, as for example in the recent Tour of Drenthe, where the Australian rider Loren Rowney suffered a broken collarbone after the hand of a male supporter became caught in her handlebars causing the 26-year-old to miss the rest of her season.¹² However this trend of selfies (especially by spectators inexperienced in cycling) only serves to exacerbate the dangers.



Rowney

THE 2004 OLYMPIC MARATHON

While no case has yet been brought by a cyclist who missed out on victory, it is worth reviewing the nearest precedent from the 2004 Olympic Games in Athens. Like cycling tours, the Marathon is a long distance event, with comparatively light security due in part to its length and outdoor location. At the 2004 race, a protestor (Cornelius Horan) deliberately interrupted the marathon four miles from the finish and attacked the Brazilian athlete (Vanderlei Corderio de Lima) leading the race. In the ensuing fracas, De Lima was overtaken by his competitors. He later unsuccessfully claimed that the attack prevented him from winning the Olympic Gold Medal.¹³ In a subsequent appeal to the Court of Arbitration for Sport (CAS), de Lima stated that he was running at a quick enough



De Lima

⁷ Bowden A, 'Woman hit by Vansummeren in Tour of Flanders crash paralysed for life' *Road.cc* (19th November 2014) (online) [<http://road.cc/content/news/136395-woman-hit-vansummeren-crash-paralysed-life>]

⁸ Taken from an article by Tom Cary: 'Tour de France spectator causes cyclists to crash' *The Telegraph* (7th July 2014) (online) [<http://www.telegraph.co.uk/sport/othersports/cycling/tour-de-france/10951714/Tour-de-France-spectator-causes-cyclists-to-crash.html>]

⁹ Sean Ingle, 'Tour de France 2014: Selfies the new "pain in the arse" for riders' *The Guardian* (6th July 2014) (online) [<http://www.theguardian.com/sport/2014/jul/06/tour-de-france-2014-selfies-pain-arse-riders>]

¹⁰ Tweeted by Tejay van Garderen from his personal account which was reported by a number of papers [https://twitter.com/tejay_van/status/485818219908042754]

¹¹ Richard Windsor, 'Alberto Contador knocks down fan's selfie-stick at Giro d'Italia' *Cycling Weekly* (27th May 2015) (online) [<http://www.cyclingweekly.co.uk/racing/giro-ditalia/alberto-contador-knocks-down-fans-selfie-stick-at-giro-ditalia-173470>]

¹² Stuart Clarke, 'Spectator insists role in Loren Rowney's crash was unintentional' *Cycling Weekly* (16th March 2015) (online) [<http://www.cyclingweekly.co.uk/news/latest-news/spectator-insists-role-in-loren-rowney-crash-was-unintentional-162366>]

¹³ Author uncited, 'Protestor ruins Marathon' *BBC Sport* (29th August 2004) (online) [http://news.bbc.co.uk/sport1/hi/olympics_2004/athletics/3610598.stm]

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pace not to have been caught by the eventual winner (Stefano Baldini).¹⁴ This argument was however rejected by the tribunal, who stated that:

“Following an appeal lodged by the Brazilian team for obstruction in the Men's Marathon the Jury reviewed the video of the race. They would like to express their sympathy towards the athlete and regret the unfortunate incident. This shall not happen in the future and the security should be reinforced for road events. The IAAF is asking the Greek authority to identify the responsible person and take the appropriate sanctions. The final result cannot be changed.”¹⁵

The appeal for an extra Gold Medal to be awarded to the Brazilian athlete was also rejected because CAS are unable to change the result of a race unless there has been:

"Evidence of preference for, or prejudice against, a particular team or individual."¹⁶

Ultimately, despite the clear disadvantage given to de Lima in the race, there was no sign that the defendant in question had decided on a specific named target, other than the then leader of the race, and as such CAS was unable to change the race outcome. While this might seem at face value to be unfair to de Lima, the alternative – to award an additional medal would be fraught with difficulties and variables. For example, should cycling races have to determine how much of an effect a spectator had on the outcome of the race? Or whether the incident was actually caused by the spectator or by the actions of the competitor?¹⁷

IMPLICATIONS FOR CYCLING

One interesting complexity for cycling, is that unlike the Olympic games where there are medals handed to the winners, there is no real prize on offer for the winner of a stage. Instead, particularly in three week stage races like the Tour de France, each stage winner does not receive a medal, but rather competes to have the lowest aggregate time for the duration of the race. This makes it very difficult to amend individual results. What currently happens if any riders are held up by a crash in the final 3km of the race is that the rider(s) are awarded the same time as the group they were riding with. This solves the long-term placings over the three-week race, but does not necessarily help those riders aiming to win individual stages rather than the overall title.

The best solution for the UCI would be to ensure that the races are better marshalled by those who organise them. For example the Tour of Britain, organised by Sweet Spot, have a small piece on the official website of the Tour stating the applicable spectator guidelines:¹⁸

- Please do not attempt to take videos or photograph the race from beyond the barrier, which could be dangerous for yourself and the riders. Keep children back from the roadside and animals on a lead.
- Remember taking selfies is fun but turning your back on the race is never a good idea. Please face the oncoming riders and race convoy at all times. Selfies can be taken away from the roadside.

¹⁴ *De Lima & BOC v. International Association of Athletics Federations (IAAF) CAS 2004/A/727*

¹⁵ *Ibid*, [6]

¹⁶ *Ibid*, [29]

¹⁷ See the earlier example of Loren Rowney riding arguably too close to the barricades

¹⁸ Spectator guidelines put in place by the Tour of Britain organisers. From their website [www.tourofbritain.co.uk/spectate/]

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- Please listen to any instructions given to you by a steward or police officer, they are there for your safety.

There are two significant problems with these guidelines though. The first is that they are simply expectations or guidelines rather than explicit and enforceable rules. The second is that a breach of the rules carries no notable penalty - such as expulsion from a stadium - as many of the races take place along public roads and are free-to-attend, non-ticketed events. Unlike recent tennis incidents at both the Melbourne¹⁹ and French Open²⁰ Championships, the sheer scale and distance of a cycling event makes organisers more reliant on spectators to police themselves. It is also important to distinguish Cycling selfie's from those in other sports, given the inherent safety implications in taking the photo (beyond the traditional security and access concerns). If organisers and governing bodies are serious about combating the threat from spectators, the rights and responsibilities of spectators needs to be written into the rules and enforced at events, for example, like the UCI road race regulations that strictly forbid riders from crossing level crossings once the barrier is down.²¹ The alternative is that it may be necessary to restrict spectator access to the events through a greater use of more traditional barriers. Until this situation can be resolved, the behaviour of spectators is a clear and present risk to the safety of an event whether they mean it to be or not (indeed, it may be more likely that any incident is unintentional by well-meaning but exuberant spectators). It is also worth noting that if an organiser takes responsibility for policing spectators or erecting barriers, then they would assume a duty of care to ensure that both riders and spectators are protected, and that the barriers are appropriately supervised.²²

CONCLUSIONS

Due to the fast-moving nature of a cycling race, riders often have only seconds to react to obstacles in their path. While they might ultimately share some contributory negligence for a failure to take avoiding action, it is the race organisers that should prima facie be at fault for any incident caused by an intervention from a spectator, whether this is due to a failure to either move spectators on or adequately control them along the route, or from a failure to enforce safety regulations on those watching from the side-lines.²³

As de Lima demonstrates, it is likely that riders will find it too hard to prove that they would have gone on to win the race/stage if not for the intervention of a spectator, but this should not stop riders from bringing cases against the spectators involved for any personal injuries suffered. This action might then act as a deterrent to others who may think about becoming involved in an incident. Indeed, the Loren Rowney incident may (or not) have been an unfortunate accident, however it has had serious consequences for her season.

¹⁹ Organisers tried to regulate the use of selfie sticks courtside: Sarah Dean, 'Maybe the players didn't get the memo! Australian Open organisers crack down on selfie-obsessed fans....but Maria Sharapova and Novak Djokovic clearly don't mind' *Daily Mail Australia* (21st January 2015) (online) [<http://www.dailymail.co.uk/news/article-2919352/Australian-Open-Grand-Slam-world-crack-selfie-sticks-case-distract-players-annoy-spectators.html>]

²⁰ Roger Federer was accosted by a young spectator attempting to take a selfie on the court: Gary Morley, 'French Open 2015: Roger Federer furious after boy's selfie attempt' *CNN* (25th May 2015) (online) [<http://edition.cnn.com/2015/05/24/tennis/roger-federer-french-open-tennis-news/>]

²¹ UCI Cycling Regulations, 'Part 2: Road Races' (2015) [2.3.034 - Level Crossings]

²² *Watson v. British Boxing Board of Control Ltd and another* [2001] QB 1134

²³ *Fenton v. Thruxton (BARC) Ltd* (2008) (unreported) (Basingstoke County Court)

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The million dollar question for event organisers is how can they ensure that spectators (particularly people inexperienced with cycle races) not just understand and consent to the risks inherent in viewing cycling, but also that they behave appropriately while waiting? Until this is solved, it may be that riders are best advised to avoid taking too close a racing line to the spectators,

cavete populus...

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