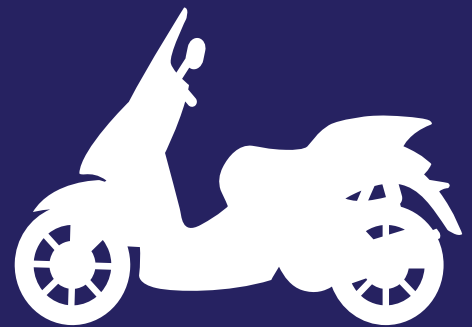
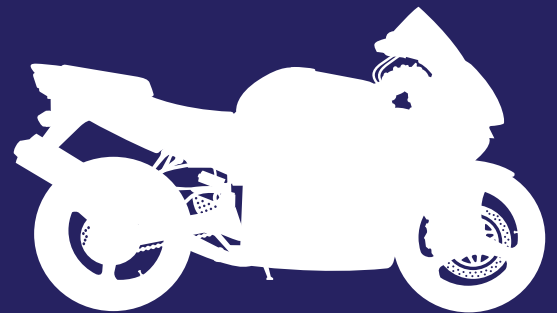


A RESPONSE TO

Working Document on the proposal for a Regulation on approval and market surveillance of two or three-wheel vehicles and quadricycles COM(2010)0542

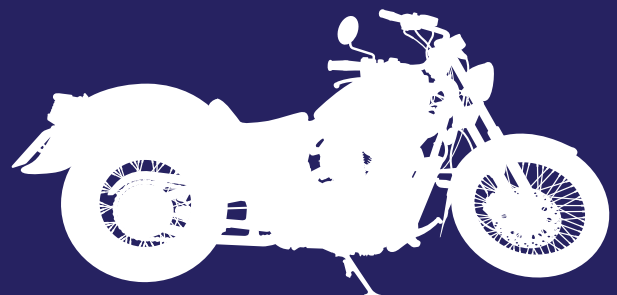
Internal Market and Consumer Protection Committee (IMCO)



Trevor Baird
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4rd March 2011

Right To Ride



Right To Ride

4th March 2011

A response to the document **“Working Document on the proposal for a Regulation on approval and market surveillance of two or three-wheel vehicles and quadricycles COM(2010)0542”¹** presented on the 28th February by MEP Wim van de Camp, Rapporteur, to the Internal Market and Consumer Protection Committee (IMCO)² and to representatives of the European Commission (DG Enterprise and Industry).

Right To Ride

Right To Ride Ltd which is a Non Government Organisation (NGO) registered as a non profit company limited by guarantee (Registered Number N1073799) based in Northern Ireland.

Right To Ride’s objectives are: To carry on activities, in particular (without limitation) to promote awareness and understanding of training, environmental road safety and security issues relating to the use of those vehicles classed in law as motorcycles, scooters, mopeds, motorcycle combinations and tricycles and to research and investigate solutions to these topics. To do all such other lawful things as may be incidental or conducive to the attainment of the above objects.

Background

In his report to the IMCO meeting on 28th February the Rapporteur Wim van de Camp outlined the issues relating to the EU Commission’s proposal. We are aware that he had listened to arguments during his visits to motorcycle manufacturers and during the “Work Shop” that he hosted in the European Parliament for FEMA and its members along with members of the EU Parliament and Commission.³

We assume that he viewed other documents in order to take a position in recommending to the committee a report that will form the basis of the opinion of the IMCO committee with regards to the European Commission’s proposal to be submitted at a public hearing to IMCO on the 22nd March 2011. In spite of these visits and the workshop at the EU Parliament, he has outlined positions that we find difficult to understand.

For this reason, we have written our report as a critique of Mr van de Camp’s report and below are our comments which we will be forwarding to Mr van de Camp, members of the IMCO, the Commission and the press.

Time Table

European Parliament - Committee on the Internal Market and Consumer Protection (IMCO), provisional timetable as presented by the Rapporteur:⁴

- expert visits January / February 2011
- presentation working document 28 February 2011
- *consideration draft report 13-14 April 2011*
- *deadline for amendments 04 May 2011*
- *consideration amendments 24-26 May 2011*
- *vote in IMCO 15 June 2011*
- *plenary meeting 5-8 July 2011(tbc)*

Right To Ride – Top Issue

On our Right To Ride.EU website we have highlighted the EU Commission’s proposal as our top issue. We have been following and reporting in-depth on the issues since January 2010 when we reported that discussions are afoot that could change the world of motorcycling as we know it.

You can view all the reports and items that we have produced regarding the commissions proposal at - www.righttoride.eu/?page_id=968

¹ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-458.653+01+DOC+PDF+V0//EN&language=EN>

² <http://www.europarl.europa.eu/activities/committees/homeCom.do?language=EN&body=IMCO>

³ http://www.fema-online.eu/index.php?mact=News_cmnt01_detail_0&cntnt01articleid=181&cntnt01returnid=57

⁴ http://www.acem.eu/media/d_2PhilippeJean_2011_01_26_ACEM_Annual_conference_v2_18280.pdf

4. Safety Measures

In this section the Rapporteur comments: "In contrast to other vehicle types these figures (In 2008, 5 520 PTW riders died in road accidents) for L-category vehicles have remained static or even slightly increased".

A document, "Towards a European road safety area: Policy orientations on road safety 2011-2020" from the European Motorcycle Industry (ACEM)⁵ appears to contradict the Rapporteur's figures which are referenced from the European Transport Safety Council (ETSC) 2007.

The Rapporteur's data based on ETSC figures also appear in the Commission Staff Working Document – "Accompanying document to the Proposal for a Regulation Of The European Parliament And Of The Council On The Approval And Market Surveillance Of Two- Or Three-Wheel Vehicles And Quadricycles"⁶ from October 2010.

Whereas the ACEM document was published in February 2011 and it indicates that: "In recent years, there has been a dramatic growth in the use of PTWs, with increases of up to 400% in cities such as Rome and Barcelona." The report indicates that "Notwithstanding the significant increase of the PTW fleet and of the kilometres driven by PTWs, combined with their greater vulnerability, it is clear that a relative improvement in motorcycle safety has been made."

While ACEM accepts that "compared to other modes of transport, PTWs have shown a slower rate of improvement with a reduction of 14% in all PTW fatalities in a context of a 17 % increase in the parc (the greatest boost of all vehicle parcs) over the period 2001-2008."

The authors of the ACEM report highlight that "Moped safety has improved. Between 2001 and 2008, there have been 41% less moped fatalities, an important reduction in quite stable circulating parc. Moped riders have made the greatest achievements in terms of safety in comparison to all road users." They also indicated that "Motorcycle rider fatalities have experienced a -1% decrease, however it must be highlighted that the MC fleet raised (increased) by +37% for the period 2001-2008."⁷ What this suggests is that in terms of exposure rates, motorcycle fatalities have decreased far more than the absolute numbers suggest.

The Rapporteur's statement indicates that, "In 2008, 5,520 PTW riders died in road accidents", and that, "In contrast to other vehicle types these figures for L-category vehicles have remained static or even slightly increased." However, this statement is contradicted by the same ETSC - "Countdown to 2010 Only two more years to act! 2nd Road Safety PIN Report"⁸ which states the following: "At least 6,200 Powered Two Wheeler (PTW) riders were killed in road crashes in 2006 in the EU 25."

Thus, n.6,200 fatalities in 2006 less n.5,520 fatalities in 2008 is a decrease of 11% or n.680 fatalities over two years.

While the figures may be "justified" with exposure to risk e.g. miles travelled, this reduction of fatalities over this period is not what the Rapporteur states, which is that fatalities have remained static or even slightly increased.

The point we are making is that the foundation for the Rapporteur's comments and thus the proposal of the European Commission, are based on data which are inaccurate and misleading.

Obligatory fitting of Advanced Brake Systems (anti-lock and combined braking systems)

On the basis of these fatality statistics, the report states that: "High costs and the perception that ABS might reduce the "sporting" character of motorcycling have been a factor in consumer resistance".

Note: To prevent confusion when referencing ABS (Advanced Braking Systems) we will use the full terms ABS (Advanced Braking Systems) - ABS (Antilock Braking System) – CBS – (Combined Braking System) where possible.

The latest model of BMW's S1000RR is claimed to be the German company's first venture into modern superbikes or motorcycle with "sporting" character. This motorcycle can be fitted with optional electronic rider assistance systems

It is possible to buy as optional extras, electronic rider assistance systems: Race ABS (Antilock Braking System) £870.00 and DTC (Dynamic Traction Control) which is only available with Race ABS (Antilock Braking System) (£1325.00), DTC adjusts engine torque to the current level of grip. Also available is Gear Shift Assist (£325.00) which allows the gearbox to change up gears without any discernable interruption to the power delivery.

⁵ http://www.acem.eu/media/d_Policyorientationsroadsafety_ACEM_22973.pdf

⁶ <http://www.europarl.europa.eu/document/activities/cont/201011/20101130ATT03848/20101130ATT03848EN.pdf>

⁷ ACEM's figures are drawn from the OECD Road Transport Research Programme [International Road Traffic and Accident Database \(IRTAD\)](http://www.irtad.org)

⁸ http://www.etsc.eu/documents/copy_of_copy_of_copy_of_2nd%20PIN%20Annual%20Report%202008.pdf

The total cost of a sports package with Gear Shift Assist, DTC traction control and Race ABS (Antilock Braking System) is £1360.00⁹ therefore according to the manufacturer, the cost of taking the “full package” is greatly reduced.

The S1000RR also comes with launch mode, power mode with 4 performance settings. The ABS (Antilock Braking System) functionality changes with the power mode selected, coming in sooner in Rain mode, then intervening nearer the tyres’ limits with each mode change towards Slick. One of the modes, “Slick” mode automatically allows the turning off the rear brake ABS (Antilock Braking System) while maintaining any benefits of the front wheel ABS (Antilock Braking System).

The Honda CBR1000RR which is classified by Honda as a Super Sports, is fitted as standard with an electronically-controlled Combined ABS¹⁰. According to Honda¹¹ this is a revolutionary innovation for a bike in this class and is the first Combined ABS to be designed specifically for a super sports motorcycle.

It is worthwhile noting that the ABS system fitted to the BMW S1000RR is called a “Race ABS” therefore enhancing performance for riders and marketed to show that ABS (Antilock Braking System) is not the preserve for touring or non sporting motorcycles.

If any motorcycle model could contradict the report’s statement and demonstrate the Rapporteur’s apparent lack of knowledge of the facts, which is that “the perception that ABS (Advanced Braking Systems) might reduce the “sporting” character of motorcycling, as a factor in consumer resistance”, then that model is the Honda Fireblade (CBR1000RR) with its Combined ABS system.

Another manufacturer, the Austrian manufacturer KTM, also contradicts the report’s statement that the perception of ABS (Advanced Braking Systems) might reduce the “sporting” character of motorcycling as a factor of consumer resistance.

The recently launched KTM 990SMT ABS is fitted with an ABS (Antilock Braking System) which can be turned off by the rider. According to media reports KTM has taken nearly two and a half years to develop the KTM 990SMT ABS as they wanted it to enhance the bike’s braking and sporty ability, not just be a safety feature. KTM wanted to release an ABS (Antilock Braking System) version when it felt that the electronic gadget offered a performance upgrade.

The new 2011 Kawasaki Z1000SX is marketed thus: *“offers supersport seduction with everyday versatility. The Z1000SX offers street riding excitement wrapped in seductive full-fairing styling that embodies its sporty performance. Add a number of convenience features and the result is a unique package more than able to satisfy a rider’s every desire. Whether looking to move on from a supersport or super-naked ride, or step up from a mid-size sport model, the Z1000SX offers the performance and versatility for a fuller bike life than ever experienced. The Z1000SX’s well-integrated full-fairing styling offers a good indication of its sporty character. Featuring a “personal jet fighter” motif, the sensuous styling is both audacious and subtle at the same time. The aggressive design gives the Z1000SX its own distinct appearance, yet is instantly recognisable as a Kawasaki”*.

On top of this seductive marketing Kawasaki adds: “For added braking reassurance, ABS models are available in certain markets”.

Therefore it would seem that these motorcycle manufacturers have moved away from marketing ABS (Advanced Braking Systems) as a safety option to an option that enhances the “sporting” character of motorcycling or added assurance.

In fact we would assume that BMW, Honda, KTM and Kawasaki have carefully done their market research so that this type of sports bike or bike with sporting ability, will be bought by the market segment it is targeting.

These motorcycles technological “enhancements” appear to be developed and marketed thus and not under the “banner” of technological restrictions.

The Rapporteur also comments about ABS (Advanced Braking Systems) that: “A switch-off mechanism may solve this problem when referring to advanced braking systems that are not always compatible with the use of certain motorcycles during off road conditions.

⁹ BMW Motorrad UK 01/03/11 www.bmw-motorrad.co.uk/motorcycles/sport/bmw-s-1000-rr/prices-and-specifications.html

¹⁰ Combined ABS uses a computer control unit to ensure the correct balance of front and rear brake use CBS – (Combined Braking System) and also controlled when the ABS (Antilock Braking System).should engage.

¹¹ <http://world.honda.com/motorcycle-picturebook/eCBS/?r=r>

This comment about a switch-off mechanism seems to have stemmed from the histrionics of the Federation of European Motorcyclists' Associations (FEMA), "the Commission has rejected FEMA's objections to the Commission's mandatory approach regarding Advanced Braking Systems (ABS) and FEMA's compromise for the fitment of a mandatory "switch-off" option if ABS is mandated."¹²

However ACEM stated in reply that, "Today the on/off button for ABS is permitted by the EU legislation. In the present text of the new proposal there is no mention of prohibiting it. The Commission has no intention to prohibit it, on the contrary. FEMA is drawing attention on a feature that nobody had the intention to prohibit."

Even if ABS (Advanced Braking Systems) are made mandatory, manufacturers could continue to offer "on road" motorcycles e.g. the BMW S1000RR which are already fitted with a mechanism to allow certain aspects of the fitted ABS (Antilock Braking System) to be switched off, depending on the settings selected by the rider or manually switched off e.g. the KTM 990SMT ABS or the BMW GS Enduro range.

Regarding the Rapporteur's comment that "advanced braking systems are not always compatible with the use of certain motorcycles during off road conditions" and his suggested solution that, "A switch-off mechanism may solve this problem." there are other issues that affect those motorcycles that are used during off road conditions if ABS (Advanced Braking Systems) are made mandatory.

The "dual purpose" motorcycle such as the BMW GS Enduro range at present comes with the option of having ABS (Antilock Braking System) fitted, in this instance there is a switch to turn off the ABS (Antilock Braking System).

The BMW GS is probably the most "famous" of this type of motorcycle to be used on unsurfaced public roads whether in Europe or Africa or across the globe.

However motorcycles that are used in competition or recreation such as type approved Trail and Enduro bikes that spend most of their time in "off road conditions" – which they are legally entitled to. These motorcycles are legal with number plates, silencers, tax and insurance but are incompatible with the fitting of ABS (Advanced Braking Systems) because the ability to intentionally lock the wheels is essential in certain off-road conditions.

In the UK alone, 42,500 Trail and Enduro bikes were registered between 2005 and 2009. These represented 10% of all registered motorcycles in 2005 and 6% in 2009 (these figures exclude those not registered).

We are supportive of the ACEM position that exemptions for the fitting of ABS (Advanced Braking Systems) should be introduced for specific vehicles such as Enduro and Trial motorcycles.

In our opinion, all motorcycles that fall into a "dual purpose" type should be exempt from the fitting of ABS (Advanced Braking Systems) while manufacturers can offer the option of (Advanced Braking Systems) and a switch-off mechanism compatible to the system fitted.

The Rapporteur states, "However, suppliers of ABS (Advanced Braking Systems) have indicated that the price of these systems can become as low as 100 euro's (£84 approx) if production volumes will grow."

As mentioned previously the BMW S1000RR is already in production with Race ABS (Antilock Braking System) costing £870.00. Also the Honda CBR1000RR¹³ with Combined ABS system costs £11,675; Standard Model (without Combined ABS system) £11,175 (£500 difference).

The BMW R1200GS Adventurer, which BMW now classifies as an Enduro, comes with the option to choose different enhancement packages¹⁴ including Integral ABS (Partial) £990.00 whereby the ABS can be switched off by the rider. Triumph offer two versions of its Tiger Adventure motorcycle, the Tiger 1050 and the Tiger 1050 SE ABS. The Tiger 1050 is available with or without ABS - £8,999.00 (non-ABS), £9,549.00 (ABS) (£550 difference).¹⁵

Therefore giving these examples, the fitment of ABS (Antilock Braking System) can cost between £500 and £990. This is a significant cost for the option of having ABS (Antilock Braking System) fitted to motorcycles **that are already produced in volumes for the world wide market.**

Although the 2011 KTM SMT ABS is £350 cheaper than the 2010 SMT this appears to be an artificial price relating to marketing to hook riders to "buy into" the model.

¹² Right To Ride - www.righttoride.eu/?p=6472

¹³ Honda UK www.honda.co.uk/motorcycles/supersports/#/cbr1000rr/

¹⁴ BMW Motoradd UK 01/03/11 www.bmw-motorrad.co.uk/motorcycles/enduro/bmw-r-1200-gs-adventure/prices-and-specifications.html

¹⁵ Triumph Motorcycles 01/03/11 www.triumphmotorcycles.co.uk

The official cost of ABS (Advanced Braking Systems) systems declared by the manufacturers is nowhere near the Rapporteur's predicated low cost. For that reason we believe that the Rapporteur needs to provide evidence to support his estimate from those who supply ABS(Advanced Braking Systems) systems: of production volume growth that would reduce the price of these systems to as low as 100 euros (£84 approx). Furthermore the Rapporteur would be advised to look at the timeframe that would be required to reach such a low level of cost. Especially in respect of his comment in the report "that he would - if feasible - even consider advancing the deadline for mandatory advanced braking systems (in the proposal: 1 January 2017)".

The Report states that: As a result, (of consumer resistance) a voluntary approach has not been sufficient to ensure the introduction of ABS (Advanced Braking Systems). We believe that there is no "consumer resistance" and thus this statement is misleading.

Perhaps the Rapporteur is confused by assuming that the position of motorcycle lobby groups against the mandatory fitting of ABS as that of consumer resistance.

With regards to their commitment to the voluntary fitment of "advanced braking systems" ACEM states that this ensures the large-scale deployment of all advanced systems (50% objective by 2010; 75% objective by 2015) on all PTWs (motorcycles). That is 75% fitment of ABS two years before the proposals 2017 deadline giving a further two years to achieve the deployment of all advanced systems. This of course is offering the option of ABS (Advanced Braking Systems) fitted on the motorcycle that the consumer wishes to purchase.

It appears that on the one hand the Rapporteur calls on the industry to offer optional ABS (Advanced Braking Systems) in all motorcycle categories as soon as possible and to encourage consumers to opt for ABS (Advanced Braking Systems) equipped bikes, while on the other hand he proposes to bring forward the date of mandatory ABS (Advanced Braking Systems).

In its recent report, on the framework regulation, the European Economic and Social Committee stated that, "On the safety side, the EESC welcomes the legislative approach to advanced braking systems on motorcycles, but it reiterates the need to properly evaluate the cost-effectiveness of the different systems, depending on the different products and their usage patterns. The EESC supports a technology-neutral approach in the area of advanced braking systems, in order to provide manufacturers with the necessary flexibility and stimulate innovation, in the interest of the consumer."

ACEM has also stated, that, "A legislative approach would be detrimental to the variety of systems currently being developed by industry, potentially freezing innovation in the area of "advanced braking systems" and "Mandatory anti-lock braking systems, applied on new vehicle architectures, would unnecessarily raise the vehicle market price to levels unaffordable for the potential market."

We believe that the Rapporteur's support of the introduction of mandatory ABS (Advanced Braking Systems). by the Europe Commission is not a balanced or factual approach.

The Rapporteur and recent comments from members of the The Internal Market and Consumer Protection Committee IMCO meeting on 28th February imply that these members believe "technical" solutions or fixes, will be the "chalice" that will bring about a magical reduction in motorcycle accidents and the risk of getting seriously injured. However the Rapporteur states that, "Also riders should be educated regarding use and benefits."

We are of the opinion that this statement combined with the rest of the report on the mandatory introduction of ABS is the Rapporteur's "Liability" caveat which is that if ABS (Advanced Braking Systems). becomes mandatory, blame should not fall on legislators for any increases in accidents and casualties.

While the Rapporteur recommends education on the use and benefits, he does not expand on how this would be implemented. It may simply be riders reading their motorcycle owner's manual or a suggestion for training on the motorcycle's ABS (Advanced Braking Systems). system before being allowed to set off riding on the road, but this is not clear. Manufacturers produce different ABS (Advanced Braking Systems). systems with the basic principles of operation, however each system operates within different tolerances and one make is different to another.

There are various reports and documents regarding the use of ABS (Advanced Braking Systems). and what to expect when riding. Riders can attend voluntary training sessions on the use of and experience the application of ABS (Advanced Braking Systems). in a safe environment.¹⁶ Therefore the Rapporteur's "good idea" appears to be exactly that (a good idea).

¹⁶ The Low-Down on Bike ABS, Linked and EVO Brakes By Steve Makohin – 2006 **The ABS Safety Net**: "Motorcycle ABS offers a considerably increased safety margin. However, if you use up that safety margin, you may put yourself at even greater risk than by not having ABS. For example,

By using a statistical approach, the Rapporteur states that, "Research indicates that motorcyclists' annual fatality figures would be reduced by 20% in ten years time if ABS becomes mandatory". This figure would appear to come from research conducted by the Fédération Internationale de l'Automobile (FIA)¹⁷ concerning Anti-lock Braking Systems (ABS) for motorcycles.

The FIA report indicates that ABS could reduce motorcyclist fatalities by some 20% in 2020, if it were already mandatory in 2011. This early introduction would correspond to a reduction of some 5,500 fatalities in a period of 10 years. While the FIA report states that the number of fatalities of motorcyclists increased by some 10% between 2000 and 2008 it fails to mention that motorcycle use (the motorcycle parc) increased by +37% for the period 2001-2008¹⁸.

The FIA report then states that the European Commission's proposal includes the mandatory fitment of ABS (we would assume that is Advanced Braking Systems – ABS and not just Anti-lock Braking Systems (ABS) as alluded to by the FIA) as from 2017. Unfortunately, the proposal applies only to motorcycles of more than 125 cc. According to the same accident research, **this would only reduce motorcyclist fatalities by some 8% in 2020.**

So it would appear that the reduction mentioned in the European Commission's proposal for the mandatory fitment of ABS (Advanced Braking Systems). should be 8%, if mandatory ABS (Advanced Braking Systems). was in place in 2011 and not 20% as stated by Mr van de Camp.

The Rapporteur continues. "It (the mandatory fitting of ABS (Advanced Braking Systems) will also reduce the number of accidents and will mitigate the risk of getting seriously injured".

However ACEM has stated that "MAIDS¹⁹ indicates that in 80 to 87% of PTW accidents, ABS (Advanced Braking Systems). has no effectiveness and an increased share of PTWs fitted with ABS (Advanced Braking Systems). will lead to more collisions involving PTWs still in an upright position, which may reduce the expected benefit of ABS (Advanced Braking Systems).."

Our view is that using statistics to prove a point needs to be done concisely, not out of context, not biased and not misleading. The issue is not whether ABS (Advanced Braking Systems). works, but whether it should be made mandatory and whether the reasons for this mandatory introduction are a benefit over voluntary introduction.

The European Commission proposals have three objectives: simplification of the legislation (Better Regulation), new emission standards, and new safety measures. The simplification pillar consists of replacing the framework Directive and its separate Directives by a single framework Regulation. The proposal is supposed to radically simplify the current legislative set of 15 Directives by replacing them with just 5 Regulations. At the same time, new emission and safety measures would be introduced in order to keep the legislation up to date with the latest technology developments.

It is our opinion that the proposals are not simplifying the regulations by mandating ABS (Advanced Braking Systems). nor are they improving on safety measures that are being introduced in any case, voluntarily by manufacturers.

The proposals will lead to confusion about which bikes are exempt from the fitting of ABS (Advanced Braking Systems).. At present there already appears to be confusion about what type of motorcycle can or cannot be fitted with a system to turn off the ABS (Advanced Braking Systems). or if indeed a system to turn off the ABS (Advanced Braking Systems). system will be permitted. Consumer choice is being denied and the perceived benefit of mandatory introduction of ABS (Advanced Braking Systems). to rider safety in certain conditions is dubious. The proposal regarding ABS (Advanced Braking Systems). appears to be trying to solve a perceived problem with technology, but not all problems can be solved with technology.

In sum, we disagree with the Rapporteur's statement regarding the mandatory fitting of ABS (Advanced Braking Systems)., "that motorcyclists' annual fatality figures would be reduced by 20% in ten years time if ABS (Advanced Braking Systems). becomes mandatory and will also reduce the number of accidents and will mitigate the risk of getting seriously injured". We also disagree with his analysis that ABS (Advanced Braking Systems). systems will only cost 100 Euros (£84) through the growth of production.

if you get into the habit of riding in closer proximity to other vehicles, or at higher speeds because of the belief that ABS will be able to rescue you when you call upon it, then the additional safety margin offered by ABS may be insufficient to overcome the higher risks you have introduced through your change in riding style. When you ride an ABS-equipped bike, be aware when the ABS engages. When it does, consider it a warning that you have already exceeded the limits of your motorcycle and/or your riding abilities, and that it has prevented a skid. Adjust your riding style to avoid repeated ABS engagements. And ride as though you did not have the benefit of ABS available to you".

www.righttoride.co.uk/virtuallibrary/technical/ABSbrakesprosandcons2006.pdf

¹⁷ <http://www.fiabrussels.com/en/news/anti-lock-braking-systems-on-all-motorcycles-asap.htm?CRPUBID=11186000003968>

¹⁸ http://www.acem.eu/media/d_Policyorientationsroadsafety_ACEM_22973.pdf

¹⁹ MAIDS : Motorcycle Accidents In Depth Study www.maids-study.eu

What we believe will happen has already been highlighted in an LAT report²⁰ which is that the increased cost of motorcycles will drive those the Commission and the Rapporteur appear to be targeting, towards buying second hand motorcycles and keeping them for a longer period of time, thus defeating the purpose of the legislation they want to introduce.

Automatic headlight on (AHO)

The Rapporteur states that he “therefore welcomes the proposal to improve the visibility of PTWs by the automatic switching of lighting (AHO Automatic Headlights On).” He mentions the voluntary industry agreement regarding AHO, that has been in place since 2002²¹ and comments that not seeing a PTW (Powered Two Wheel) has been reported to be a common cause of collisions, during both the hours of daylight and at night.

The reasoning behind this mandatory introduction appears to be that motorcycle manufacturers who are not part of motorcycle industry in Europe (ACEM) do not have to equip their motorcycles with AHO, even though they are obliged to conform to whole type vehicle approval. So the logic behind this proposal seems to aim to reduce competition from extra-EU manufacturers.

Whether this is the case or not, ACEM manufacturers have the largest share of sales in Europe. Therefore if the majority of (ACEM) motorcycles have been fitted with AHO since 2002, this infers that the majority of motorcyclists ride with their headlights on during daylight. It follows therefore that not seeing a motorcycle would not be the common cause of collisions with motorcycles. By using the Commission and Rapporteur’s same logic, AHO on motorcycles has little or no effect.

The Rapporteur also mentions that all new car models will be fitted (DRL on cars and light vans has already come into effect since February 2011. By summer 2012 buses and large/heavy vehicles will also have to be so fitted²².) with ‘daytime running lights’ (DRL), but these are actually Dedicated Running Lights – DRL – powered by diode type lights which although within the regulations effectively make the vehicle without headlights on even less visible in relative terms, the reason for this is that diode lights glare and obfuscate vision.²³

It appears that the Rapporteur and the European Commission are both suggesting that the legislation on DRL for cars and vans etc will make motorcycles less visible, therefore AHO or rather Dedicated Running Lights, need to be made mandatory for motorcycles as well.

As we understand it, the purpose of DRL is so that vulnerable road users can see vehicles (not vice versa). But if this holds true, then one of the most important elements – pedestrians (and to a lesser degree, cyclists) – has been excluded, because the DRL legislation does not consider that car drivers (and if this proposal goes through), motorcyclists, will not have the onus to see pedestrians.

What seems to be implied is that there is a shift towards the more vulnerable being responsible to “see” the vehicle which moves liability away from the vehicle driver. In other words, the thrust of this legislation appears to be driven by cost (to insurers) rather than for reasons of safety, furthermore, even the Commission’s own report has been unable to provide sufficient evidence that DRL will reduce fatalities (Elvik)²⁴.

In addition to this position, the Rapporteur adds the statement that, “In case of repair and maintenance works it should be possible to switch off the light.” This appears to have come from FEMA who have said, “FEMA advised the Commission to link the mechanism to the start of the engine instead of being switched on by the ignition.²⁵” Unfortunately, we do not understand the reasoning behind this, as no explanation has been given by the Rapporteur or FEMA.

Since AHO has been implemented voluntarily since 2002 we are unaware of any major problem reported of the headlight being turned on with the ignition key during repair or maintenance. If the issue refers to the possibility of discharging the battery then we would argue that modern batteries are quite capable of retaining their operational capabilities without the engine running for substantial periods of time. Also during repair and maintenance we are curious to understand how long or often is it required to have the ignition turned on without the engine running.

²⁰ http://ec.europa.eu/enterprise/sectors/automotive/files/projects/report_measures_motorcycle_emissions_en.pdf

²¹ Since 2002 the industry has removed the headlight switch so that motorcycle dipped headlights are permanently on.

²² This will apply only to new types of vehicle, not to vehicles already in use or to new vehicles built under existing type approvals.

²³ www.lightmare.org

²⁴ http://ec.europa.eu/transport/roadsafety/publications/doc/IR2_report3_ver_oct_2004.pdf

²⁵ <http://www.fema-online.eu/index.php?page=september-october-2010>

While regarding the technical measures aimed at reducing tampering the Rapporteur argues that this should be accompanied by regular random spot checks by public enforcement authorities²⁶. It would appear that no consideration has been given to the different laws in member states as regarding the mandatory illumination of a motorcycles headlight.

However returning to the main issue, that the headlight, “In case of repair and maintenance works it should be possible to switch off the light.” and FEMA’s advice to the Commission, “to link the mechanism to the start of the engine instead of being switched on by the ignition,” this is already possible on certain motorcycles. The example of this is our own BMW R1200ADV GS (registered in 2007). There is a procedure whereby when the ignition is turned on, the headlight can be turned off, while the pilot/sidelight and rear light remain illuminated. When this is in operation a warning light is illuminated on the dash to warn the rider that the headlight is turned off. Once the ignition is turned off and then turned back on the headlight resets its self to normal operation.

However on this model of motorcycle the headlight does **not** illuminate when the ignition is switched on, only when the engine is started does the headlight illuminate. Only the pilot/sidelight and rear light are illuminated when the ignition is switched on.²⁷

We would suggest that if all manufacturers are so inclined, they could introduce a similar procedure, or if not already available, when diagnostic equipment is “plugged in” then the headlight can be turned off during service and maintenance.

Accordingly we can see no need to introduce the suggested unnecessary solution or mandatory technical regulations for an unforeseen problem that could increase cost to riders and have negative safety implementations.

Anti-Tampering Measures

On a positive note, Mr van de Camp observes that “within the motorcycle community a well established culture of modification exists, to improve the performance of their vehicles. Preventing this will disadvantage many qualified riders”. He argues that it should therefore be left to the discretion of Member States to deal with these kind of modifications.

However, Mr van de Camp calls for “a tough line of action against tampering aimed at illegally increasing the maximum vehicle speed at the cost of pollutant emissions, fuel consumption and safety. This often concerns low costs mopeds, scooters and quads which are mostly used by younger people”.

In consideration of the fact that even the Commission is unsure about its position on anti-tampering – such that a study has been undertaken (carried out by TRL²⁸) to identify whether a problem actually exists – and will not know the results of this study until the end of 2011, Mr van de Camp’s position is disconcerting to say the least.

He states that “the technical measures aimed at reducing tampering should be accompanied by regular random spot checks by public enforcement authorities.” While we agree with the Rapporteur with regards to enforcement of illegal exhausts etc. Mr van de Camp has publicly stated that he is against the implementation of EU harmonised Periodical Technical Inspection²⁹. While Mr van de Camp may disagree with PTI in his country, he is after all, supposed to be working on behalf of all European consumers.

One of the advantages of PTI is that it gives the authorities the opportunity to inspect vehicles regularly irrespective of spot checks by public enforcement authorities, for issues such as illegal exhausts and by implication would negate the need for anti-tampering measures. It would seem that Mr van de Camp has a conflict of interest.

Furthermore anti-tampering measures as outlined by the Commission, will not only affect exhaust systems but it will cover the whole power train including tyres, spark plugs, indeed any device that up until now, can be modified or replaced with independent products.

²⁶ As an example: In the Philippines the House Committee on Transportation has approved for plenary debate a measure requiring all motorcycle drivers to turn on headlights while driving to enhance visibility for motorists. All headlights must be of sufficient intensity to reveal a person or a vehicle at any distance of not less than 30.5 kilometres (*sic*). Motorcycle riders or operators who are apprehended without using the headlight at anytime of the day or night will be penalized with a fine ranging from P1,000 (Approx £14) to P5,000 (Approx £14) along with the suspension of their driver’s licence for one month. Furthermore, all manufacturers, assemblers, importers and distributors found without a headlight face a fine of not more than P20,000 (Approx £284) and suspension of the license to manufacture, assemble, import or distribute for one year.

²⁷ This information added to document 8th March 2011

²⁸ http://circa.europa.eu/Public/irc/enterprise/automotive/library?!=/mcwg_motorcycle/2011_meeting_january_201/studies_cuerden/ EN_1.0 &a=d

²⁹ In Northern Ireland there is a system of PTI (called MoT) which is an annual inspection to identify faults in a vehicle. It is relatively cheap, it costs £22 a year, it is run by a government agency, it is easy to book and takes about half an hour.

Mr van de Camp's position seems to come from a national interest rather than looking at the whole picture, which is that these anti-tampering measures will monopolise the products that manufacturers sell and ultimately drive up costs. Consequently in this respect, we believe that his position as Rapporteur has been compromised.

5. Other technical requirements

Small series and individual vehicle approval

The Rapporteur has commented that he will investigate the proposed changes to reduce small series manufacturers of motorcycles from 200 to 50 and in some cases 20. In consideration that the premise of the Commission for restricting small series manufacturers was due to the fact that individuals and companies are by-passing regulations, as a consequence, the Commission aims to punish legitimate small series manufacturers. The other reason given by the Commission is "proportionality" which is to proportionately limit small series motorcycle manufacturing to small series car manufacturing.

However it appears that the Commission and perhaps the Rapporteur are unaware that for example the price of a small series TVR Sagaris is c.60,000 Euros compared to c.14,000 Euros for a small series Norton Commando 961 Sport. This suggests that the Commission has only considered the proportionality of the numbers and not the proportionality of cost.

Mandatory Introduction Of On-Board Diagnostic Systems

In his report, the Rapporteur comments on On-board diagnostic (OBD) systems³⁰ and states that while in principle he agrees with the proposed stepped approach to mandatory introduce OBD systems, he questions the proportionality of the provision requiring the use of OBD on L1 and L2 mopeds.

However, we question the purpose for the mandatory introduction of OBD for all two wheel L category vehicles.

The LAT report³¹ (page 14) indicates that using the 2020 as a time horizon (...) would improve the cost-effectiveness of the OBD introduction. The reason is that the probability of severe malfunctions increases with age and, therefore, the emission benefit of a system that could diagnose these malfunctions increases.

The LAT report continues "*However, there are significant uncertainties in this calculation as it largely depends on a scenario of emission malfunction probability and not solid experimental data on the behaviour of actual motorcycles. There also continues to be a difficulty in the technical implementation of catalyst efficiency monitoring in motorcycles because the knowledge from passenger cars is not directly transferable to motorcycles.*

Motorcycles have a wider engine speed range, the catalyst thermal gradients are larger due both the operation of the engine and the position of the catalyst, while the WMTC driving cycle does not include steady-speed modes that would enable the same OBD monitoring strategy with passenger cars. This does not mean that OBD monitoring is technically impossible but extensive calibration will be required to introduce OBD for motorcycles at this stage. The recommendation from the current study is, again, that other measures have a higher priority than the introduction of OBD.

This means that durability regulations and roadworthiness procedures need to be first established. These will provide better information on the actual degradation and malfunction probability of motorcycles. After such information becomes available, one would be in better position to reassess the introduction of OBD for motorcycles.

Once again, the position of the Rapporteur on PTI appears to have compromised his impartiality.

While the scope of Periodical Technical Inspection is outside the remit of DG Enterprise and Industry and not within the proposals herein, one of the objectives of the Commission (DG MOVE) is the harmonisation of Periodical Technical Inspection.

While we understand that there are motorcyclists in some European countries that do not wish to have PTI³², we are of the opinion that with the proviso that derogation by Member States is allowed to determine the technical details

³⁰ OBD can make information on engine and vehicle management (i.e. emissions) easily available so that the vehicle can be repaired effectively and efficiently

³¹ http://ec.europa.eu/enterprise/sectors/automotive/files/projects/report_measures_motorcycle_emissions_en.pdf

³² In fact on Facebook there is an aggressive campaign organised by the Federation of European Motorcyclists Associations entitled No Periodical Technical Inspection for Motorcycles. As of today 4th March, 2011 there are 3,700 signed up to this campaign. <http://www.facebook.com/home.php#!/group.php?gid=116608511726843&v=wall>

(including emissions testing) and cost of PTI, we see this as a far better option than mandatory OBD, not least because the cost of OBD will fall onto the mechanics and repairers which will then be passed onto the consumer.

Indeed, on page 16 of the LAT report “Effect of Legislation”, the authors comment that “*Each policy option that will be adopted by the Commission to formulate a new legislation, contributes uniquely to a “common purpose”, which is the reduction of pollutant emissions from PTWs. All policies related to pollutant emission reduction are associated with “General Social Impacts”, which can be described by the following “chain reaction”:*

Any regulation/implementation of a policy option most probably leads to an upward pressure on the PTWs’ direct costs (i.e. purchase price) or associated costs (i.e. maintenance, periodically scheduled checks, etc.). This cost increase may cause a decline in new PTW sales and especially in these categories that are popular to youngsters or low income consumers in general.

Therefore, a stringent emissions policy may result to environmental benefits from new motorcycles, but on the other hand it may shift the market towards cheaper second-hand vehicles and/or increase the lifetime of all vehicles, which may result even to an increase in pollution and congestion. Furthermore, a stringent emission policy may lead small vehicle fleets to their extinction, introducing an economic burden to small companies and SMEs. In any case, emission control measures add relatively more to the motorcycle price than passenger cars, and this should be taken into account when developing the regulations”.

As mentioned previously with regards to the additional cost of ABS brakes, the same holds true by mandating OBD, ultimately it will be the consumer to pick up the cost or shift towards cheaper second-hand bikes thus defeating the purpose of the proposed legislation on mandatory OBD for the purpose of ensuring the correct emission levels.

Conclusion

The working document presented by the Rapporteur Wim van de Camp was not what we as motorcycle “experts” were expecting.

We found that the information provided by the Rapporteur was incomplete and piecemeal, furthermore it appears to have only taken into consideration a minority of views e.g. his comments about ABS brakes and the “switch”; AHO and the “switch” are in our opinion the views of those who have no technical experience. It appears that their influence on the Rapporteur has unfortunately moved the discussion on ABS and AHO into an area of nonsense and seems more like an extract from Dante’s inferno – “You have escaped damnation and made it into Purgatory”

The Rapporteur’s position on anti-tampering goes beyond the scope of his remit – for the simple reason that the Commission has put this proposal on hold due to the study that is being conducted by Transport Research Laboratory (TRL) and will not have any conclusions until the end of 2011.

The Rapporteur’s position on mandatory OBD suggests that not only did he not listen to the concerns of the industry but appears to have been influenced by his own constituency in the Netherlands by publicly admitting that he is against the introduction of a European wide Periodical Technical Inspection (PTI) which would be the most obvious substitute for mandatory OBD. This in our view, is a conflict of interest.

Finally, at the IMCO meeting on 28th February where this document was presented, the tone of the meeting was one of mutual backslapping and “in” jokes. It seemed that the Rapporteur’s findings were taken for granted and apart from the fact that four of the members of the Committee were absent and substitutes were sent to read out their statements, the overall comments were generally irrelevant such as statements about e-bikes and environmental issues etc.

In conclusion, it is our view that what was originally intended as the simplification of regulations to reduce bureaucracy has turned into a labyrinth of proposals which in our view, will have little or no safety benefit and will inevitably turn what should be a simple and efficient means of transport into the privilege of the select few due to the increase in cost that the consumer will be obliged to pay.

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