

# AMATEUR BIKE BUILD - BRUSSELS STYLE

Regarding amendments 95 - 304 to the proposal  
for a Regulation on approval and market surveillance  
of two or three-wheel vehicles and quadricycles



Commenting on the Internal Market and Consumer Protection Committee (IMCO)  
meeting on 12 July 2011 presentation of amendments.

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**Right To Ride**

## Amateur Bike Build – Brussels Style

Right To Ride 15th July 2011

On Tuesday 12th July 2011 the Internal Market and Consumer Protection (IMCO) committee met to consider 298 amendments tabled by MEPs on the European Commission's proposal - Approval and market surveillance of two – or three-wheel vehicles and quadricycles.

The 15 minute session could not realistically wade through all the amendments therefore the MEP Wim van de Camp (The Rapporteur) in charge of the report, grouped the issues in a ten point summary:

- Euro Emissions and Timetable for implementation
- Standards for OBD (On Board Diagnostics) for scooter and mopeds
- Time frame and engine size for implementing mandatory ABS (Anti Lock Brakes) and CBS (Combined Braking Systems)
- Electric bicycles – speed and kilowatts
- Anti-Tampering measures
- Repair Maintenance Information (RMI)
- Sustainability test – to look at the California test i.e. when a motorcycle is manufactured it complies with regulation – emissions and durability i.e. it should say within these regulations for a certain period of time/mileage.
- End of series vehicles – new type approval rules
- Weight of certain categories of vehicles
- PTI (Periodical Technical Inspections)

Relating to the time available to discuss the amendments, the Chair of IMCO, UK MEP Malcolm Harbour, suggested that this meeting was a start to the discussions, that more time after the parliamentary holidays in August could be made available to discuss the report. However they would need to look at the final vote scheduled for 5th – 6th October 2011 and then confirm the date for presentation to European Parliament in October 2011.

The Shadow Rapporteurs, from different EU political groups, Kerstin Westfahl – German MEP and Toine Manders – Netherlands MEP, Malcolm Harbour, UK MEP, representing his own group within the EU parliament gave their views and opinions at the meeting.

Ms Westfahl commented that, “ABS (Advanced Braking Systems) are important, we have tabled amendments to make them mandatory by 2015, only those less than 50cc (5kw) exempted. With braking technology we reduce accident rates for PTWs (Powered Two Wheelers), the cost of fitting ABS isn't exorbitant and not disproportionate to results. There are too many deaths and ABS is the best suited system”.

Toine Manders concentrated on electric bikes, mentioning it might be worthwhile looking at China – he said “lots of accidents because people can't hear them”. He was of the opinion that there should be European standards for charging points for these bikes.

He has also introduced in the amendments PTI (Periodical Technical Inspections). PTI was not in the Commission's proposal nor was it within the remit and are being dealt with separately by DG MOVE (another part of the EU Commission). He was of the opinion that the purpose of technical inspection is to make vehicles safer, saying that “it is important to have an inspection regularly – 2 or 5 years”.

Mr Manders also mentioned that it is important to improve lateral visibility for motorcycles and he has introduced this into the amendments.

The Chair Malcolm Harbour, as Shadow Rapporteur to the proposals gave his views and opinions.

In terms of broader issues – he brought forward the difficult issue about quad bikes (“road going”) or off road vehicles which is that a significant number and are used for agriculture and as such should be covered under the agricultural sector.

What differentiates these is the fact that the vehicle is able to push, pull and actuate equipment which is different for those used on public roads. Amendments have been introduced for specific sub-categories in the proposal for certain quads - ATV All Terrain Vehicles Side-by-Side vehicles (SbS)

On Board Diagnostics (OBD) – In the case of OBD, Mr Harbour said that there is a proposal to have a much more sophisticated system. However he suggested that there is no indication that it would make any difference to the environment (which perhaps is a reference to the LAT report?).

Mr Harbour remained unconvinced that ABS (Anti Lock Braking Systems) is effective in scooters – CBS (Combined Braking Systems) operates all the time and is a much greater safety benefit – and he stated that “we need technical advice and assessment”.

The European Commission’s representative also made a short statement at the meeting “that apart from the 10 areas linked to Commission proposal – we have seen amendments that go beyond the scope of the proposal.” This may be in reference to Mr Mander’s introduction of PTI and harmonization of European motorcycle driving licence and stating the obvious “that there is still quite a lot of work ahead”.

Rounding off the meeting the Rapporteur, Wim van de Camp said that he would be spending the parliamentary holidays looking at the amendments to the proposal.

At Right To Ride we wish Mr Van de Camp all the best to figure out all the 298 tabled amendments some of which cancel each other out and we would suggest a darkened room to help get his head around the complexities of how these amendments could fit together.

## **Information**

We have been following the proposal and have made comment to previous amendments and issues regarding all aspects of the proposal.

We set up a specific website, Right To Ride EU, to deal specifically with the regulations. All our previous comments, documents and news are available at [www.righttoride.eu](http://www.righttoride.eu) and we have listed and linked these documents at the end of this report.

## **A Summary of sorts**

There are MEPs involved at this stage who appear to have been lobbied especially regarding amateur build vehicles – customising. One of these is Finnish MEP Eija-Riitta Korhole who in putting forward amendments to include “Unique amateur built vehicles”. She has stated the justification for her amendments that:

*“A small number of European citizens enjoy the hobby and culture of building their own two or three-wheel vehicles (unique amateur built vehicle). Unique amateur build vehicles perform excellently in accident statistics and not represent a danger to the environment due to negligibly low numbers registered annually as well as low annual mileage. Therefore, unique amateur built vehicles should be exempted explicitly from expensive testing procedures and standards.”*

However there are also some amendments that have been put forward separately that cover this justification and how the regulations would cover these “Unique amateur built vehicles”.

There are amendments that delete some of the proposals, some that add more complications to the proposals, some that try to simplify, some that are outside the scope of the proposals, some are complicated, some are short, some tie up loose ends, some are new but at this stage the proposal is here to stay, which will see changes for new motorcycles manufactured after a certain date.

At this stage we have picked through the amendments and report on those that would have a direct effect either in a positive or negative manner, if they are eventually adopted in the regulation.

However we must bear in mind that there is a long way to go, with the amendments to be finalised and voted on during a future IMCO meeting – 5th – 6th October 2011 and then presented to the European Parliament in October (TBC) to be voted on. Depending on this vote then there could be a further legislative process for all to agree.

That process includes the European Council who will have an equal input to the Parliament’s input on the Commission’s proposal. Then the Regulation will need agreement by the Governments of the Member States represented in the Council before it becomes EU law.

We have not looked in-depth this time at delegated acts and regulations having covered these in depth in our article Regulation Master Class <http://www.righttoride.eu/?p=6978>

### **The Amendments (NB our comments commence with “RTR”)**

The latest list of amendments are listed as 95 -304 and were published on the 22<sup>nd</sup> June 2011. The previous draft report from the Rapporteur, Wim van de Camp which was published on the 6<sup>th</sup> May 2011 contains amendments from 1 – 94 and an explanatory statement regarding the report and the reasoning behind the commission’s proposal, its objectives and the strong support of the main objectives by the Rapporteur of the proposed Regulation.

One of the most prolific MEPs to submit various amendments is the MEP Toine Manders from the Netherlands.

It would appear that Mr Manders has a more than passing interest in motorcycles and their safety, as according to his website profile, after a serious motorcycle accident he was left a paralyzed left arm.

Therefore we will start here and include where appropriate amendments submitted by other MEPs. As ever, we are not backward at coming forward and will offer our own views and opinions where necessary.

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*Note the amendments below to the proposal are in italics.*

### **Proposal for a regulation Article 41 – paragraph 3**

Toine Manders Dutch MEP

#### **Amendment 185**

3. An individual approval shall apply to a particular vehicle, whether it is unique or not.  
*Unique amateur-built vehicles shall benefit from simplified and affordable applications to individual approval.*

Bernd Lange German MEP

#### **Amendment 186**

3. An individual approval shall apply to a particular vehicle, whether it is unique or not, *and in particular to unique vehicles built by private individuals.*

**RTR:** These two amendments obviously deal with the same original text in the proposal. We understand that by “unique amateur build vehicles by individuals” in motorcycle terms would refer to those motorcycles that are built from the “ground up” either with engineered parts or parts from other motorcycles that would then class them as a “new” vehicle and require individual approval.

This would not relate to heavily modified motorcycles that retain their original identity, either by fitting of engineered parts – home or professional or those that have been fitted with parts that are already type approved.

For the UK, processes are already in place for individual approval.

**RTR:** Our opinion is that both amendments should be amalgamated – as follows:

3. An individual approval shall apply to a particular vehicle, whether it is unique or not.  
Unique amateur-built vehicles built by private individuals shall benefit from simplified and affordable applications to individual approval.

### **Proposal for a regulation Article 41 – paragraph 4**

Toine Manders Dutch MEP

#### **Amendment 188**

4. Applications for individual approval shall cover a maximum of 15 vehicles of the same type.

Heide Rühle German MEP

#### **Amendment 187**

4. Applications for individual approval shall cover a maximum of 20 vehicles of the same type.

The commission’s proposal stated 5 vehicles.

**RTR:** Our opinion is that the amendment should be 20 vehicles which we would assume would cover amateur motorcycle builders who are on the cusp of becoming recognised as professional builders but whose business is based on the heavy modification of motorcycles which would require individual approval. To limit these people to 5 vehicles of the same type, (although we cannot see

what the same type refers to) could be seen as restricting innovation and stalling any future business development.

### **Proposal for a regulation Article 42 – paragraph 2 – subparagraph 3 a (new)**

Toine Manders Dutch MEP

#### **Amendment 194**

*The alternative requirements for unique amateur-built vehicles shall ensure a satisfactory level of functional safety and environmental protection which is reasonable and fair to that provided for by the relevant subject listed in Annex II.*

**RTR:** This is an amendment that was not in the original commission proposal and appears not to fit into the original text.

The copy of the original text we are in possession of already has Article 42 paragraph 2 a subparagraph 3.

#### **Article 42 Exemptions for individual approvals - sets out in paragraph 1**

1. An approval authority may exempt the vehicle from compliance with requirements laid down in one or more of the acts listed in Annex II, provided that the approval authority imposes alternative requirements and has reasonable grounds for such exemption.

**RTR:** The amendment however sets out specifically unique amateur-built vehicles and their satisfactory level of functional safety and environmental protection which should be reasonable and fair to that provided for by the relevant subject listed in Annex II.

Annex II sets out issues relating to functional safety and environmental protection and includes - environmental test procedures related to exhaust emissions, evaporative emissions, greenhouse gas emissions and fuel consumption; braking, including anti-lock and combined brake systems - test procedures related to sound; maximum design engine speed, maximum torque, maximum net engine power.

**RTR:** Our opinion is that with this information at hand, the amendment moves from a statement of exemption to a philosophical approach of which is reasonable and fair.

### **Proposal for a regulation Annex II – II Vehicle functional Safety requirements – Point 9a (new) (sideward visibility)**

Toine Manders Dutch MEP

#### **Amendment 232**

##### *9a sideward visibility*

This is an amendment that was not in the original commission proposal. The justification for this amendment is: To optimise the safety of riders, the visibility of L-category vehicles should be improved via sideward visibility measures, for instance via reflectors.

**RTR:** While this seems to be a good idea it is a separate technical regulation that is perhaps outside the scope of the proposal. Our opinion is that this amendment although well intentioned, should be rejected.

## **Proposal for a regulation Annex II – II Vehicle Functional Safety Requirements – Point 17 a (new) (technical examination)**

Toine Manders Dutch MEP

### **Amendment 238**

#### *17a technical examination*

This is an amendment that was not in the original commission proposal. The justification for this amendment is: A L-category vehicle should undergo at least once every five years a technical examination by an approved repairer. By this, the situation will be avoided that L-category vehicles didn't get any maintenance for years. The owner gets a proof of the examination, which in case of an accident has to be presented to the police and insurance company. In case the owner didn't do the obligatory examination on his vehicle, the owner will remain partly guilty to the accident, even if it is was not his fault.

**RTR:** This amendment is outside the scope of the proposal and would seem to relate to Periodical Technical Inspects (PTI) which the European Commission (DG MOVE) consulted on in 2010.

Our opinion is that the amendment for motorcyclists in the UK is fundamentally flawed as proof of an examination does not mean that a vehicle is roadworthy for a year. An owner may rely on this examination and feel the necessity to regularly maintain their vehicle as the amendment suggests at least every five years. In the UK a vehicle must be inspected (MOT) first when they are four years old and over and then require an annual inspection.

Another worrying aspect of this amendment is the partial guilt to an accident even if it was not the owner's fault.

Our conclusion to the PTI consultation was that we were unable to support the introduction of a harmonized mandatory PTI for 2 wheeled vehicles because we had no (and still do not have) knowledge of what the Commission aims to propose.

You can view our response to this consultation at [www.righttoride.eu/?page\\_id=3435](http://www.righttoride.eu/?page_id=3435)

Our opinion is that this amendment should be rejected.

## **Proposal for a regulation Annex II – II Vehicle Functional Safety Requirements – Point 17 b (new) (driving licence harmonisation)**

Toine Manders Dutch MEP

### **Amendment 239**

#### *17 b driving licence harmonisation*

**RTR:** This is an amendment that was not in the original commission proposal, nor is it within the remit of the Commission (DG Enterprise and Industry) to include this within the proposal.

Mr Mander's justification for this amendment is: *"Nowadays the driver licence schemes in the Member States differ a lot for ages and L category vehicles. These should be harmonised so that there will be a level-playing-field in the European Union for driving licences for the L-category"*.

## **Proposal for a regulation Annex VIII – Row 1 – Column 3**

Toine Manders Dutch MEP

### **Amendment 293**

(a) new motorcycles of the L3e–A1 subcategory which are sold, registered and entering into service are to be equipped with either an anti-lock or a combined brake system, both types of advanced brake systems *or with an approved new technology for a brake system*, at the choice of the vehicle manufacturer;

The justification for this amendment is: *There should be room for new technologies when it comes to braking systems.*

The other amendments to the proposal regarding ABS (Advanced Braking Systems) are:

## **Proposal for a regulation Annex VIII – Row 2 – Column 2**

Kerstin Westphal German MEP

Amendment 294

*Two years after the date referred to in the second subparagraph of Article 82.*

**RTR:** What this would mean is that the introduction of the mandatory fitting of advanced brake systems would take place by 2015.

## **Proposal for a regulation Annex VIII – Row 2 – Column 3 – Point (a)**

Kerstin Westphal German MEP

### **Amendment 295**

(a) *new motorcycles of categories L1be, L2e and L3e which are sold, registered and entering into service are to be equipped with an anti-lock brake system or an antilock brake system and a supplemental combined brake system.* This shall not apply to vehicles with an engine capacity of < 50cm<sup>3</sup> and a maximum continuous rated power output of < 5 kW.

**RTR:** However we need to look at the original text proposed by the Commission

*(a) new motorcycles of the L3e–A1 subcategory which are sold, registered and entering into service are to be equipped with either an anti-lock or a combined brake system or both types of advanced brake systems, at the choice of the vehicle manufacturer;*

Comparing the two texts the original text from the commission was simple, either anti-lock or a combined brake system or both types of advanced braking systems, leaving the choice to manufacturers to be fitted to new two wheeled motorcycles from low performance e.g. 125cc to medium performance to high performance motorcycles.

The amended text now covers mopeds (two and three wheel) but Ms Westphal's amended text does not allow the manufacturer to choose what system to fit to the motorcycle they have developed. The amended text basically says it is either an anti-lock brake system or an anti-lock brake system backed up by a combined brake system but it appears that a combined brake system cannot be fitted on its own.



We consider that this amendment is driven by an almost religious fervour that advanced braking systems will be the cure to reduce motorcycle accidents and casualties, while restricting the choice of manufacturers to fit and develop a braking system that suits the motorcycle they are developing.

The following amendment - Amendment 296 by the Italian MEP Lara Comi combines the original text by adding - These requirements also apply to L3e-A2 subcategory having an engine power not exceeding 20 kW which are provided with a Continuously Variable Transmission (CVT).

**RTR:** However although we have stated motorcycles and their various categories, there are different styles of motorcycles such as scooters that are not just low powered and include mopeds, which behave and handle differently than a “normal” styled motorcycle.

A paragraph of text following amendment 296 highlights this and seems to contradict Kerstin Westphal:

“Other technologies (like the Combined Brake System - CBS) are available on the market, providing, according to the studies, more safety on smaller vehicles. The so-called Scooters, indeed, have a weight distribution concentrated mainly on the rear axle and a low centre of mass, while the other motorcycles have an opposite situations; the braking system has to act accordingly, and cannot ignore such differences. Such a proposal would also have an impact on the cost of middle range scooters (as the Advanced Brake System - ABS is roughly 2.5 times more expensive than the CBS), not buying, as far as the technical studies argue, more safety.”

**RTR:** We consider Ms Kerstin’s amendment seriously flawed, overall our opinion is that the manufacturers’ voluntary commitment to ensure the large-scale deployment of all advanced systems is the best way forward.

However as there is no amendment to delete the original text from the commission, then mandatory Advanced Braking Systems in whatever form, it appears that they will become mandatory.

Our opinion is that this amendment 295 should be rejected.

## **Proposal for a regulation Annex VIII – Row 3 – Column 1**

Toine Manders Dutch MEP

### **Amendment 298**

Improvement of vehicle and rider visibility by automatic switching of lighting *and measures for sideward visibility.*

Mr Manders amendment also refers to Amendment 232 regarding sideward visibility.

However this amendment also refers to the original text: *Improvement of vehicle and rider visibility by automatic switching of lighting.*

**RTR:** The major manufacturers have been fitting automatic switching of lighting or AHO (Automatic Headlights On) on their motorcycle since 2003, headlights are already switched on while other drivers still fail to see motorcyclists.

Our opinion is that the legislation for mandatory headlights on for all motorcycles, is to give the motorcycle industry an opportunity of reducing the competition from the influx of cheap motorcycles mainly from the Far East that do not have AHO.

As there is no amendment to delete the original text from the commission then the switching on of lighting appears to become mandatory.

## **Proposal for a regulation Annex VIII – Row 3 a (new)(Training)**

Toine Manders Dutch MEP

### **Amendment 299**

In order to improve the safety of riders, education for the L-category in the Member States shall include simulation programmes. For drivers of the M category, education shall include simulation programmes with special attention being given to L category vehicles.

**RTR:** This is an amendment that was not in the original Commission proposal nor is it within the remit of DG Enterprise and Industry.

The justification for this amendment is: *In case of accidents with L-category vehicles, cars are involved in 82% of the cases. In around 72% of the accidents between L-category vehicles and cars, the accident is not the fault of the rider of the L-vehicle. For safe training purposes, education for L-category shall include simulation programmes. To raise awareness and to pay more attention to L-category vehicles in traffic, education for the M-category shall include simulation programmes in which L-category vehicles are included.*

**RTR:** While this is outside the scope of the proposal we appreciate the purpose of the amendment to raise the awareness of motorcycles by other vehicle drivers, however the huge expense of simulation programmes would be unsustainable and drive up costs for novice motorcyclists.

Our opinion is that this amendment should be rejected.

### **Other Amendments**

Working through the document this section looks at the other amendments put forward. Some are already not related to the subject matter of the proposal perhaps making a political point or personal opinions with genuine concerns, good ideas and not so good ideas.

## **Proposal for a regulation Recital 9**

Robert Rochefort French MEP

### **Amendment 97**

This proposal relates to Member States that refuse the initial registration and any subsequent registration within their territory of vehicles with a maximum net power of more than 74 kW. In other words France!

The recital in the Commission's proposal states, *"anticipated correlation between safety and absolute power limitation could not be confirmed in several scientific studies. For that reason and in order to remove internal barriers to trade on the Union market, this option should no longer be maintained. Other, more effective safety measures should be introduced to help reduce the high numbers of fatalities and injuries among riders of powered two-wheel vehicles in road accidents in the Union."*

Mr Rochefort's amendment offers some measure and reasoning with the addition of:

*"These measures should take into account in particular that driver behaviour is a major cause of accidents. In this connection, driver training focusing on defensive driving should be encouraged."*

**RTR::** We would assume that by defensive driving Mr Rochefort actually means that drivers should be made aware of motorcyclists and that new riders need to learn defensive driving?

### **Proposal for a regulation Recital 13**

Wim van de Camp Netherlands MEP

#### **Amendment 102**

(13) In order to prevent misuse, any simplified procedure for small-series vehicles should be restricted to cases of very limited production. It is therefore necessary to define precisely the concept of small series in terms of the number of vehicles sold, registered and entered into service. *Individual approval should apply to a particular vehicle, so as to accommodate a more simplified and affordable application to unique amateur built vehicles.*

### **Proposal for a regulation Recital 15**

Robert Rochefort French MEP

#### **Amendment 103**

(15) Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive. *To be effective, they should be accompanied by regular roadside checks.*

**RTR:** In a communication from Malcolm Harbour Chair of IMCO, which we reported on 13<sup>th</sup> May 2011, he stated that, “A proposal on random spot checks is not included in the Commission proposal.” He further stated that, “The Rapporteur called for road side spot checks as a political statement in his working document to encourage EU police forces to enforce the legislation and act against the youngsters which do tamper with their rides in a way which clearly compromises vehicle safety.”

He continued that, “The concerns expressed about this are invariably from serious and experienced bikers that clearly do not tamper illegally with their rides and **should really not be concerned about this statement.** The police would clearly not be targeting obviously experienced and well equipped riders.”

He concluded, “Moreover, the Rapporteur is not intending to table an amendment modifying an article of the proposal to include reference to road side spot checks as this is not related to the subject matter of the proposal.”

So while indeed the Rapporteur Wim van de Camp did not table the amendment, Rochefort has tabled this amendment which is not related to the subject matter of the proposal and offers no justification for the amendment or lays out how member states enforcement agencies should apply road side enforcement in an effective, proportionate and dissuasive manner.

## Proposal for a regulation Article 18

Kerstin Westphal German MEP

### Amendment 125

Ms Westphal has deleted the following text from the Commission's proposal.

Measures regarding modifications to the powertrain of vehicles

1. 'Powertrain' means the components and systems of a vehicle that generate power and deliver it to the road surface, including the engine(s), the engine management systems or any other control module, the pollution control devices, the transmission and its control, either a drive shaft or belt drive or chain drive, the differentials, the final drive, and the driven wheel tyre (radius).

2. L-category vehicles shall be equipped with designated measures to prevent tampering of a vehicle's powertrain, to be laid down in a delegated act by means of a series of technical requirements and specifications with the aim:

(a) to prevent modifications that may prejudice safety, in particular by increasing vehicle performance through tampering with the powertrain in order to increase the maximum torque and/or power and/or maximum designed vehicle speed as declared by the manufacturer of a vehicle upon type-approval, and/or

(b) to prevent damage to the environment.

3. The Commission shall lay down the specific requirements regarding the measures referred to in paragraph 2 by means of a delegated act adopted in accordance with Articles 76, 77 and 78.

4. After a modification of the powertrain, a vehicle shall comply with the technical requirements of the initial vehicle category and subcategory, or, if applicable, the new vehicle category and subcategory, which were in force when the original vehicle was sold, registered or entered into service, including the latest amendments to the requirements.

**RTR:** This in our opinion is the basis of the whole Commission proposal, as it sets down what is meant by the powertrain and what is covered in the proposal as well as measures to prevent tampering of the powertrain that could affect safety through increasing performance speed and prevent damage to the environment.

Previously we reported that, "It would be a hard job to simply ask for the deletion of article 18 considering that the IMCO rapporteur has already indicated that he favours tough anti-tampering measures." We also asked, "What would be put in place as an alternative?"

Ms Westphal does not offer any justification for this deletion and on the face of it looks very advantageous for motorcycling.

However Wim van de Camp in **Amendment 126** amends paragraph 2.

*2. L-category vehicles shall be equipped with designated measures to prevent tampering of a vehicle's powertrain with the aim:*

**RTR:** This removes the part of how the prevention of tampering would be laid down in a delegated act by means of a series of technical requirements and specifications.

Bearing in mind the Commission has stated that the aim is to prevent illegal tampering and that we are still waiting for a report from them (expected for September 2011), which according to the Commission's representatives, will identify if there is an issue with illegal modifications.

Moving on to amendment 128, by Kerstin Westphal, consider that she has just amended the proposal by deleting all of Article 18, she now offers an amendment to Article 18 with a belt and braces approach.

*(a) modifications to the powertrain of a vehicle in category L made by the owner or a garage acting on his behalf must be inspected and approved by the competent authority of the Member State concerned.*

We are rather disappointed that there is no justification or explanation or reasoning behind this amendment.

However this amendment to point (a) does not fit in with paragraph 2 that originally was an aim to prevent modifications that may prejudice safety.

In particular *“by increasing vehicle performance through tampering with the powertrain in order to increase the maximum torque and/ or power and/or maximum designed vehicle speed as declared by the manufacturer of a vehicle upon type-approval, and/or (b) to prevent damage to the environment”*.

Ms Westphal has turned an aim into a “regulation” and a very restrictive one at that and by doing so has added extra cost to the motorcyclists by requiring the motorcycle to be inspected and approved by the competent authority.

In a previous communication with the European Commission we asked what their definition of the powertrain was and this is included in the act in paragraph 1:

*1. ‘Powertrain’ means the components and systems of a vehicle that generate power and deliver it to the road surface, including the engine(s), the engine management systems or any other control module, the pollution control devices, the transmission and its control, either a drive shaft or belt drive or chain drive, the differentials, the final drive, and the driven wheel tyre (radius).*

Our understanding of this amendment is that any modifications to the powertrain must be inspected and approved by the competent authority in any member state.

When Ms Westphal indicates modifications, we assume she means any changes from the standard set up of the motorcycle that would have a detrimental effect on safety or emissions.

Surely her aim would not be to include aftermarket parts that already comply with type approval, are designed to replace, enhance and improve original parts?

However article 18 point 4 already covers the issue of powertrain modification, it sets out that after any modifications that the motorcycle will still comply to the original technical requirements of the original vehicle:

*4. After a modification of the powertrain, a vehicle shall comply with the technical requirements of the initial vehicle category and subcategory, or, if applicable, the new vehicle category and subcategory, which were in force when the original vehicle was sold, registered or entered into service, including the latest amendments to the requirements.*

In her amendment 129 Ms Westphal has, deleted the text proposed by the Commission.

(b) to prevent damage to the environment.

Therefore in certain aspects Ms Westphal amendments has changed the original text which offers an explanation why modifications (illegal tampering) should be prevented.

We do not like the original text however we consider Ms Westphal amendment unnecessary, because it puts a financial a burden on motorcyclists and has no justification on grounds of safety or environmental matters.

Continuing with Article 18 in Amendment 132 Ms Kerstin Westphal proposes a new amendment.

### **Proposal for a regulation Article 18 a (new)**

*Authorisation requirement in the event of substantial modifications to vehicle components. If substantial modifications are made to vehicle components by the user or by garages acting on his behalf, these shall be inspected by the competent authority of the Member State concerned.*

**RTR:** What is meant by “substantial modifications to vehicle components”?

What is a substantial modification and what is classed as a vehicle component/s?

Although “amateur-built vehicles” have benefitted in the amendments with simplified and affordable applications to individual approval, this amendment in our opinion relates to modified motorcycles that retain their original identity, either by fitting of engineered parts – home or professional or those that have been fitted with parts that are already type approved.

As there is no explanation of what a substantial modification and what is classed as a vehicle component/s are this could lead to member states introducing a restrictive regime of testing after any modification to the motorcycle.

For example our wee Trevor is completing some modifications and maintenance to our L4e vehicle (two-wheel motorcycle with side-car). This includes a new set of shock absorbers to the already heavily modified front end (fitted with leading link forks), replacing the front wheel with a second hard wheel which will require the fitting of the oversized, from original, tyre, fitting new aftermarket - non-original brake callipers designed for the motorcycle, aftermarket brakes pads and replacement stainless steel bolts.

Under Ms Westphal amendment would we be required to have the vehicle inspected by the competent authority?

If so, this would require the competent authority to have an inspection facility in place, to have charges in place, a booking system in place and it would require that the vehicle is taken to a place of inspection. How would I ride to that place of inspection if by implication the vehicle is no longer legally road worthy, would I be able to “road test” the vehicle so that to the best of my knowledge the vehicle is safe to ride to an inspection facility? Would my insurance be invalidated before it passes any inspection?

We consider this amendment unnecessary, because it is offering a solution to a problem that does not exist to the majority of motorcyclists. It puts a financial a burden on motorcyclists, has no justification on grounds of safety or environmental matters and is detrimental to motorcyclists positively modifying their motorcycles.

## **Proposal for a regulation Article 19**

This refers to the introduction of mandatory On Board Diagnostics (OBD) for new vehicles and there are a raft of amendments:

Malcolm Harbour Chair IMCO UK MEP

**Amendment 134 - Amendment 138 - Amendment 140 - Amendment 143 - Amendment 147 - Amendment 148.**

Heide Rühle German MEP

**Amendment 135 - Amendment 136 - Amendment 141 - Amendment 145.**

Kerstin Westphal Shadow Rapporteur German MEP

**Amendment 137 - Amendment 142- Amendment 146**

Wim van de Camp Rapporteur Netherlands MEP

**Amendment 139 Amendment 144 Amendment 149**

**RTR:** OBD systems on motorcycles monitor malfunctions and provide information to the rider if there is a malfunction and as time goes by electronic fuel management systems will become more widespread, so it is inevitable that OBD systems will too.

There have been concerns that riders will not be able to access the information contained/recorded in OBD systems and the tools required to “read” or reset the system.

Concerns have also been raised that OBD can be accessed during road side checks by enforcement agencies and by implication that the information could be used to prosecute a rider. This issue has been raised by riders and their organisations in member states - that any advantage of OBD must not be used in this manner by their enforcement agencies.

The Chair of IMCO has previously written to us that, “The intention of OBD is not to affect the motorcycle’s behaviour, but to provide the rider with information that there is a malfunction in the form of a warning light.

Mr Harbour believes this could be developed into OBD systems which provide more detail on the type and severity of the malfunction, but he will position himself against any limp-home functions that may activate unexpectedly while riding.

If the malfunction is so serious that the motorcycle runs a real and imminent risk of being seriously damaged, compromising rider security in the process, a limp home function might be welcome, but Mr Harbour’s proposal would be that it activates only once the motorcycle has been brought to a standstill.”

ETRA the European Twowheel Retailers' Association has called for an exemption from On Board Diagnostic (OBD) for mopeds (L1B category). Arguing that the mandatory fitting of OBD on such small and affordable vehicles would considerably increase their production cost, hence also their selling cost.

But what do the amendments say?

Malcolm Harbour has amended the text - Amendment 143 Proposal for a regulation Article 19 – paragraph 4 by deleting paragraph 4.

4. Following confirmation in a decision adopted by the Commission in accordance with Article 21(4), eight years after the date referred to in the second subparagraph of Article 82, all new vehicles in (sub-)categories L1Be, L3e, L5e, L6Ae and L7Ae shall in addition also be equipped with the second stage of an on-board diagnostic system (OBD II) which, in addition to OBD I, monitors not only complete failures but also deterioration of systems, components or separate technical units during vehicle life under the condition that its cost effectiveness is proven in the environmental effect study referred to in article 21(4) and (5).

**RTR:** This does not get rid of OBD but suggests that by eliminating the stages of OBD I and OBD II, this would give the industry more flexibility to equip motorcycles with the different stages of OBD as and when they are able or willing to. Our view however, is that equipping OBD should remain voluntary and not be made mandatory as this will inevitably drive up the cost of smaller motorcycles.

In Amendment 144 Wim van de Camp has deleted the requirement for category L1B –mopeds to be fitted with OBD.

Kerstin Westphal in Amendment 146 has added that: *“Vehicle users must also be able to access and understand the data collected and recorded by on-board diagnostic systems”*.

**RTR:** We would ask how anybody apart from a mechanic or experienced motorcyclist could possibly be expected to understand the data collected and recorded by on-board diagnostic systems. Does this mean that everybody who owns a motorcycle would have to go out and buy a laptop and download the information and then understand it? There is no explanation for this amendment.

Taken separately some of these amendments are advantageous however with the amount of amendments and with some of the changes to the amendments there is a danger that what we consider as advantageous will be lost in the final vote on the report.

We would suggest that the Rapporteur considers these concerns when looking at the amendments for his final report.

### **Proposal for a regulation Article 52 – paragraph 3 – subparagraph 3**

Matteo Salvini Italy MEP

#### **Amendment 199**

Paragraph 1 shall not apply to systems, components or separate technical units produced for vehicles intended exclusively for racing *vehicles not intended for use on public roads*. If systems, components or separate technical units *included in the dedicated* list in a delegated act to this Regulation have a dual use, for vehicles intended exclusively for racing on roads and for vehicles intended for use on public roads, they may not be sold or offered for sale to consumers, *unless they comply with the requirements of this Article*. *Where appropriate, the Commission shall adopt provisions for identifying the parts or equipment referred to in this paragraph.*

The justification for this is: *Without the proposed modifications, these prescriptions, that are taken from Directive 2007/46/EC Art. 31, have a completely different meaning, and would actually block the entire market of some particular components. It is fundamental to fully align the text to Article 31 in Directive 2007/46/EC, as proposed.*

The original text from the commission is:

Paragraph 1 shall not apply to systems, components or separate technical units produced for vehicles intended exclusively for racing on roads. If systems, components or separate technical units on a list in a delegated act to this Regulation have a dual use, for vehicles intended exclusively



for racing on roads and for vehicles intended for use on public roads, they may not be sold or offered for sale to consumers.

**RTR:** So what the European Commission did, was to chop off the bit they did not want.

Basically what the Commission is saying is that any product in compliance with type-approval rules and also appropriate for racing vehicles cannot be sold to consumers – the “ordinary” motorcyclists.

ACEM the Motorcycle Industry in Europe have stated that, “*Article 52 is not applicable, it is highly controversial as it is unclear why any product in compliance with type-approval rules and also appropriate for racing vehicles should be prohibited. All systems, components and separate technical units meeting type-approval requirements have to comply with strict limits and prescriptions. A ban of such products, if their use can be also adapted to racing vehicles, is unfounded*”.

*This prohibition will furthermore hurt a thriving industry of aftermarket components which puts considerable resources in marketing products meeting every legal requirement. Equally article 52 has the effect of prohibiting the sale of parts necessary for motorcycle sports activities not taking place on public roads. Access to these parts must remain possible.”*

**RTR:** This amendment retains the status quo and is crucial for the customising, modification, replacement of OEM parts and the aftermarket industry.

### **Proposal for a regulation Article 60 – paragraph 1**

Heide Rühle German MEP

#### **Amendment 205**

1. Manufacturers shall provide unrestricted access to vehicle repair and maintenance information to independent operators through websites using a standardised format in a readily accessible and prompt manner. In particular, this *information* shall be *made available* in a manner which is non-discriminatory compared to *the repair and maintenance information provided* to authorised dealers and repairers *and to independent operators. Vehicles shall be supplied with all information, special equipment and accessories essential to enable them to be adjusted, maintained and used safely.*

### **Proposal for a regulation Article 60 – paragraph 1 a (new)**

Toine Manders Dutch MEP

#### **Amendment 206**

*1a. Manufacturers shall make vehicle repair and maintenance information available in an itemised, user-friendly and legible way.*

In the Rapporteur’s draft report amendments have already been presented which include:

- (b) service handbooks including repair and maintenance records *and service schedules*;
- (c) technical manuals *and technical service bulletins*;

**RTR:** Taking these amendments of Article 60 together, we welcome them. Maintenance and repair information that is required by motorcyclists to carry out their own maintenance and repairs must be made available as outlined in an itemised, user-friendly and legible way.

## **Proposal for a regulation Article 62 – paragraph 1 a (new)**

Toine Manders Dutch MEP

Amendment 207

*1a. Manufacturers shall charge reasonable and proportionate fees depending on the amount of information used.*

However paragraph 1 says:

1. Manufacturers **may** charge reasonable and proportionate fees for access to vehicle repair and maintenance information covered by this Regulation. A fee shall not be considered reasonable or proportionate if it discourages access by failing to take into account the extent to which the independent operator uses the information.

**RTR:** We are not sure about this one as the amendment would suggest without deleting or amending paragraph 1, that manufacturers may or can charge fees. It is inconsistent.

## **Proposal for a regulation Annex III**

Annex III sets out the limit for Small Series. (units for each type sold, registered and entering into service per year).

**RTR:** The proposal aims to reduce small series motorcycle manufacturers from the present limits of 200 per annum down to 50 per annum, so for small companies like Norton, Harris and CCM, this would have devastating consequences.

However the amendments 241 – 251 submitted, amends these limits. For Example for L3e Two-wheel motorcycle the proposed limit was 50.

However Malcolm Harbour has amended proposed increasing this to 200 while Wim van de Camp has amended this to increase to 100.

Right To Ride: These are welcomed amendments and of course we prefer Malcolm Harbour's amendment.

## **Finally**

We cannot help but be astounded with the volume of amendments but more so with the quality of the amendments from some MEPs which appear to have been included based more on personal belief than on technical expertise.

On the IMCO website, it states that the Committee on the Internal Market and Consumer Protection is responsible for legislative oversight and scrutiny for EU rules on the free movement of goods and services, free movement of professionals, customs policy, standardisation, and the economic interests of consumers.

Time will tell whether the economic interests of the motorcycle industry and motorcycle consumers will benefit from the "European Commission's proposal - Approval and market surveillance of two – or three-wheel vehicles and quadricycles".

## Information

### **Proposal for a European Parliament And Council Regulation - 4th October 2011**

Regulation (EU) No /2010 of the European Parliament and of the Council on the approval and market surveillance of two- or three-wheel vehicles and quadricycles. – pdf 633kb -

[www.righttoride.eu/regulationdocuments/commentsregulationproposaloctober2010.pdf](http://www.righttoride.eu/regulationdocuments/commentsregulationproposaloctober2010.pdf)

### **Amendments 95 – 304 - 22nd June 2011**

Draft report — Approval and market surveillance of two-or three-wheel vehicles and quadricycles.

Proposal for a regulation (COM(2010)0542 – C7-0317/2010 – 2010/0271(COD)) - pdf 492kb -

[www.righttoride.eu/regulationdocuments/regulationdraftamendments220611.pdf](http://www.righttoride.eu/regulationdocuments/regulationdraftamendments220611.pdf)

### **Draft Report – Committee on the Internal Market and Consumer Protection - 6th May 2011**

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 (COM(2010)0542 – C7-0317/2010 – 2010/0271(COD)) Committee on the Internal Market and Consumer Protection – Rapporteur: Wim van de Camp. - pdf 403 kb --

[www.righttoride.eu/regulationdocuments/commentsIMCOdraftreport060511.pdf](http://www.righttoride.eu/regulationdocuments/commentsIMCOdraftreport060511.pdf)

Since January 2010 we have been reporting on variety of proposals from Brussels that are afoot that could change the world of motorcycling as we know it.

Below is a list of documents that we have produced.

You can find all our articles on Right To Ride EU [www.righttoride.eu](http://www.righttoride.eu)

Response to DG Enterprise Regarding Framework Regulations for L vehicles - 26th January 2010 pdf 307kb –

[www.righttoride.co.uk/documents/Framework\\_regulations\\_Right\\_To\\_Ride\\_public\\_260110.pdf](http://www.righttoride.co.uk/documents/Framework_regulations_Right_To_Ride_public_260110.pdf)

Response to DG Enterprise Part 2 – February 2010 - pdf 275kb -

[www.righttoride.co.uk/documents/framework\\_regulations\\_right\\_to\\_ride\\_%20part%20two\\_100210.pdf](http://www.righttoride.co.uk/documents/framework_regulations_right_to_ride_%20part%20two_100210.pdf)

China Syndrome report – April 2010 - pdf 484kb -

[www.righttoride.co.uk/documents/The\\_China\\_Syndrome\\_Framework\\_Regulations.pdf](http://www.righttoride.co.uk/documents/The_China_Syndrome_Framework_Regulations.pdf)

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 – pdf 586kb – March 2011 - [www.righttoride.eu/documents/righttorideicomreport04032011.pdf](http://www.righttoride.eu/documents/righttorideicomreport04032011.pdf)

BRAINWASHED IN BRUSSELS - Continuing saga regarding the proposal for a Regulation on approval and market surveillance of two or three-wheel vehicles and quadricycles

COM(2010)0542 - May 2011 - pdf 217kb -

[www.righttoride.eu/documents/BrainwashedinBrusselsv5.pdf](http://www.righttoride.eu/documents/BrainwashedinBrusselsv5.pdf)