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Position Paper on COM (2010) 542 EC Proposal for a Regulation on Approval and Market Surveillance of Two- or Three-Wheel Vehicles and Quadricycles

ACEM, the Motorcycle Industry in Europe, is the association representing the interests and combined skills of 12 manufacturers producing a total of 25 motorcycle, scooter and moped brands. The members of ACEM account for 90% of the production and up to 80% of the European powered two-wheeler market. The powered two-wheeler sector employs 150.000 people in the EU. ACEM also represents main manufacturers of tricycles and quadricycles¹.

I. Background

Type-approval requirements for new vehicles of the L-category² (mopeds, motorcycles, tricycles, quadricycles) are currently set out in [Directive 2002/24/EC](#) of the European Parliament and of the Council (the 'Framework Directive'). In addition, a series of Directives referred to in the Framework Directive contain detailed technical requirements relating to L-category vehicles.

With COM (2010) 542, the European Commission proposes to simplify the current legal framework and establish new administrative and technical requirements for the approval and market surveillance of all new L-category vehicles. The EC proposes new environment and safety technical requirements, a legal framework for new technologies, and market surveillance provisions to better tackle the non-compliance of certain vehicles, systems, components or separate technical units imported in the EU market.

COM (2010) 542 uses the 'split-level approach' used in other legislation for EU type-approval of motor vehicles. This approach provides for legislation in three steps:

- the fundamental provisions and scope are laid down by the European Parliament and the Council in a Regulation in accordance with the ordinary legislative procedure. COM (2010) 542 constitutes this first step.
- the vehicle technical specifications associated with the fundamental provisions are laid down by three delegated acts, to be adopted via comitology in 2011-2012.
- an implementing act sets out the administrative provisions, such as the information document, the definitions of the type-approval certificate, the certificate of conformity and associated production conformity requirements, etc. (to be adopted by mid-2012).

The EC proposal is ambitious in bringing forward a series of new technical and administrative requirements. These will be challenging to achieve for the motorcycle sector, especially in light of the current economic and social context. ACEM wishes to remind policy-makers of the difficult market situation the European motorcycle Industry is confronted with. The EU PTW market has been experiencing an unprecedented crisis with a loss in registrations of -25% compared to 2008 (from 2.500.000 to around 1.800.000 vehicles per year), putting high pressure on a sector made up of a large number of SMEs. In face of insufficient support by most Member States, manufacturers, component suppliers and distribution have been suffering over the last 24 months, with impacts on

¹ For more information, see www.acem.eu

² L category vehicles currently comprise of L1 two-wheel mopeds, L2 three-wheel mopeds, L3 two-wheel motorcycles, L4 two wheel motorcycles with side-car, L5 Tricycles, L6 light quadricycles and L7 heavy quadricycles.

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employment. The European Economic and Social Committee therefore recently called³ for the EC proposal to set goals which the sector will be able to achieve – phasing in targets which are in sync with design, production and the market, ensuring flexible solutions for industry and thus a smaller increase in costs for the consumer. Failing to take into account such parameters would bring further negative effects on the market, limiting fleet renewal, and have the effect of partly offsetting the expected environmental and safety benefits of new registrations.

II. Executive Summary

ACEM welcomes the EC coming forward with this long awaited proposal, since the regulation and its delegated acts will together provide manufacturers with needed visibility on the regulatory framework for the type-approval of L-category vehicles over the coming years. Whilst the EC objective is to simplify current type-approval arrangements, the proposal includes a number of new vehicle technical and administrative requirements, which constitute a serious challenge for the motorcycle industry. Early definition of technical and administrative requirements and their adaptation to the reality of the motorcycle sector is therefore fundamental to ensure sufficient lead-time for manufacturers to develop, test and implement solutions on production vehicles and for manufacturers and type-approval authorities in the Member States to put in place new administrative systems, at affordable cost. This becomes even more relevant in the current difficult economic context.

ACEM appreciates that some of the industry proposals in the area of environment and safety have been incorporated in the regulation proposal. It is perceived as recognition of the quality of the proposals and the responsible attitude of the manufacturers regarding their societal obligations. In the same spirit of constructive behaviour, ACEM wishes to make further proposals to improve the regulation and its application, regarding mainly:

- the date of application of the regulation, not compatible with industry minimum lead-time requirements to implement technical and administrative provisions, must foresee at least 12 months from the date of adoption of the regulation and all its delegated and implementing acts;
- the calendar of the different obligations, complex and burdensome for both manufacturers and type approval authorities in the Member States, must be rationalised (see ACEM proposal in annex 1);
- the scope of the regulation, which currently excludes some categories of vehicles, must also include trial and enduro motorcycles;
- environment and safety provisions require more proportionality to suit different vehicle categories, their specific usage characteristics and market;
- administrative requirements, which must fit the motorcycle sector (repair and maintenance information; end of series; small series; systems, components, or separate technical units...).

³ See Opinion of the European Economic and Social Committee, « Industrial change and prospects for the powered two-wheeler industry in Europe », CCMI/070, 18 March 2010



III. ACEM comments and proposals

A. Calendar and scope

The date of application of the regulation must foresee sufficient leadtime from the date of adoption of the regulation and all its delegated and implementing acts (article 82 § 2)

It is difficult to predict when the ordinary legislative procedure on the EC proposal will be concluded. Equally, whilst comitology work on delegated and implementing acts is intended to start in parallel (and planned to run until mid-2012), it is widely recognised by industry and Member States that meeting the ambitious timetable proposed by the EC will be challenging. Full visibility on the technical, testing and administrative provisions of the overall package is necessary for industry to start any development. After EP scrutiny on the comitology package, industry would be given at best three months to comply with the first batch of complex construction, testing and administrative requirements (new anti-tampering provisions, new vehicle masses and dimensions, new shift to ECE regulations, new exchange of repair and maintenance information obligations, new market surveillance obligations, new type approval process with new provisions for certificates of conformity, new marking requirements, new provisions for end of series and small series,...), all supposed to apply from 1/1/2013. This is incompatible with industry minimum lead-time requirements and clearly insufficient to set up development programmes in time, provide new specifications to suppliers and adapt processes to meet testing and administrative provisions, some of which are entirely new for the sector.

Industry asks for the application date in article 82 § 2 to be postponed by one year to 1/1/2014 in order to ensure minimum lead-time. Should the legislative process incur in delays, this date must be revised in order to ensure this minimum lead-time.

The current calendar entails a clouding of obligations over a limited amount of time (See Annex 1 of ACEM position paper)

The motorcycle industry acknowledges that the EC has intended to distribute requirements over time, in recognition of the substantial development effort demanded to industry. However, three different concerns must be highlighted:

1. Instead of bundling all the provisions into a succession of logical deadlines effectively providing for simplification, the Commission proposal would result in a complex and burdensome amount of dates (2013, 2014, 2015, 2017, 2018, 2019, 2020, and 2021) separately addressing emissions and safety measures applicable on new registrations, new type-approvals, and old type-approvals. Product planning and end-of-series management will be deeply affected by the high amount of staggered fulfilments with foreseeable negative effects on the entire sector (suppliers, manufacturers, distributors, and dealers) as well as on type-approval authorities in the Member States.
2. The end of validity of the Euro 3 stage and the repeal of existing directives set at the end of 2012 will actually prevent manufacturers from type-approving vehicles before the application of Euro 4 (01-01-2014) or its optional date (01-07-2013).

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3. The proposed optional dates offer interested manufacturers a very limited time-window to pre-comply with new environmental limit values, thus preventing cleaner vehicles from reaching the market earlier.

In order to bring simplification to the envisaged framework with benefits for manufacturers, type-approval authorities in the Member States and the consumer, ACEM proposes that:

1. All new vehicle emissions and safety measures should not be applicable to new registrations but only to new type-approvals and subsequently to old type-approvals to take into account the additional technical complexity and cost of adapting an existing vehicle to any new requirement. The same rationale has been applied in recent car legislation. This also contributes to provide higher certainty in end of series planning.
2. Directives 93/14/EEC, 93/30/EEC, 93/33/EEC, 93/93/EEC, 95/1/EC, 97/24/EC, 2000/7/EC, 2002/24/EC, 2002/51/EC, 2009/62/EC, 2009/67/EC, 2009/78/EC, 2009/79/EC, 2009/80/EC and 2009/139/EC should only be repealed in conjunction with the application of Euro 4.
3. The deletion of the optional dates in regards to the emissions stages, a measure better suiting the demands of the society and the consumers as well.

The calendar changes proposed by ACEM are presented in **Annex 1** to this position paper.

The scope of the regulation should cover all vehicles fulfilling safety, environmental and construction requirements (article 2)

So far enduro and trial L1 mopeds and L3 motorcycles not exclusively intended for off-road competition use and therefore complying with type-approval requirements have always been part of EU type-approval legislation, ACEM not being aware of this leading to any particular problem. However, inexplicably the proposed regulation explicitly excludes these vehicles from the scope of type-approval, as a result leaving them in a legislative vacuum and preventing them from using public roads. Moreover, the interpretation of the definition “*vehicles primarily intended for off-road use and designed to travel on unpaved surfaces*” in Article 2 § 2 letter (g) is left at the discretion of type-approval authorities, resulting in potential legal uncertainty and distortion of competition. ACEM considers that all L1 and L3-category vehicles meeting the safety, environmental and construction requirements of the regulation have their right and legitimate place in type-approval.

ACEM proposes to modify Article 2 § 2 letter (g) to “vehicles primarily intended for off-road use and designed to travel on unpaved surfaces (**except L1 and L3 vehicles**)”.

B. Vehicle environment and safety requirements

Environmental provisions: some items need further attention

ACEM appreciates that, in its regulation, the Commission has retained the 2-step emissions reduction proposed by ACEM. In the same spirit of constructive cooperation and in support of the Commission’s



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efforts to evaluate by 2016 the air quality and the share of pollutants contributed by L-category vehicles, ACEM is willing to contribute with its expertise and experience to the planned study, which conclusions will confirm and/or determine the detailed content of the 2020 step.

In the meanwhile, some aspects of the environmental provisions planned for the short (2014-2015) and medium term (2017-2018) deserve further consideration.

Hybrid propulsion emission limit values are incoherent (Annex VI)

Hybrid technology on L-category vehicles brings a valuable contribution in reducing pollutant and noise emissions. Yet the current proposed regulation aligns the emissions limit values of hybrid propulsion to the ones of the diesel propulsion, irrespective of the thermal engine actually used on the vehicle. This is felt by ACEM manufacturers as incoherent, and putting at an unjustified disadvantage a technology which is already intrinsically more complex and with higher component costs. The EC proposed measure does not support the development of the current hybrid niche market and would artificially limit the benefits these vehicles bring to the environment.

Emissions limit values of hybrid L-category vehicles must be logically defined according to the technology of their thermal engine.

Euro stage numbering requires consistency (Annexes IV and VI)

With the aim to bring clarity and consistency in the Euro stages numbering, ACEM asks that vehicles meeting the same environmental limit values should benefit from the same Euro stage numbering. According to the EC proposal, all L-category vehicles are supposed to reach the same target by 2020, with limit values identical in absolute terms to passenger cars. It is logic that all L-category vehicles would be qualified as Euro 6 compliant.

The same applies for the intermediate stages Euro 3 and Euro 4 of the categories L4, L5A, and L7A: as they meet the same limit values as L3, they should benefit from the same numbering, i.e. Euro 4 and Euro 5 respectively.

ACEM supports a consistent Euro stage numbering for all L category vehicles to ensure clarity in the interest of the consumer and authorities, as this would legitimately allow those vehicles meeting the same limit values to benefit from the same potential purchasing incentives or access to certain city areas generally based on Euro stage numbering.

Safety requirements: advanced braking systems need a more proportionate and flexible approach.

ACEM appreciates that the industry commitment on Automatic Headlamp-On (AHO) has been enshrined into the regulation, enhancing the safety of the riders and ensuring a level playing field. ACEM welcomes also the deletion of the power limit option enforced without tangible benefit in only one Member State. The decision brings industrial and logistic simplification and is coherent with the objectives of the EU single internal market.





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ACEM regrets that its proposal to integrate the industry commitment on advanced braking systems has not been retained by the EC and observes that this valuable industry commitment still represents a useful “bridge” towards the mandatory application of advanced braking systems on motorcycles. Whilst on the positive side, it should be recognized that the EC proposal ensures a level playing field and is obviously coherent with motorcycle categories in licensing directive 2006/126/EC, some flexibility must be introduced for existing type-approvals and exemptions foreseen for specific categories of motorcycles (trial and enduro).

EC thresholds for mandatory fitting of advanced braking systems are acceptable, but exemptions are necessary for trial and enduro motorcycles (Annex VIII)

In its proposal, the European Commission recognises the safety benefits of combined braking systems (CBS), and antilock braking system (ABS), two advanced braking systems technologies. The European Commission proposes that L3-A1 vehicles should be fitted with either CBS or ABS, and that L3-A2 and L3-A3 vehicles should be fitted with ABS.

ACEM welcomes the inclusion of CBS as an alternative to ABS for L3-A1 motorcycles: its lower costs to the consumer make CBS a valid and cost-effective solution for light street motorcycles with limited performance. ACEM accepts ABS on L3-A2 and L3-A3 categories street motorcycles, however exemptions from mandatory fitting of advanced braking systems are necessary for certain types of motorcycles, such as trial and enduro.

ABS and CBS are incompatible with usage of type-approved trial and enduro motorcycles : being able to intentionally lock one of the wheels is essential in certain off-road conditions. For this reason, ACEM asks to exempt enduro and trial motorcycles from mandatory fitting of advanced braking systems.

To clearly identify vehicles needing to be exempted from mandatory fitting of advanced braking systems, ACEM proposes to use the existing definitions of enduro and trial motorcycles present in directive 2002/51:

“Trial motorcycles are defined as vehicles with the following characteristics:

- (a) Maximum seat height: 700 mm;*
- (b) Minimum ground clearance: 280 mm;*
- (c) Maximum fuel tank capacity: 4 l;*
- (d) Minimum overall gear ratio in the highest gear (primary ratio x gear ratio x final drive ratio) of 7,5.*

Enduro motorcycles are defined as vehicles having the following characteristics:

- (a) Minimum seat height of 900 mm;*
- (b) Minimum ground clearance of 310 mm;*
- (c) Minimum overall gear ratio in the highest gear (primary ratio x gear ratio x final drive ratio) of 6,0.”*

These motorcycles represent a relatively small number of registrations on a yearly basis (EU market for enduro and trial powered two-wheelers is approximately 30.000 units/year) and are mostly manufactured by SMEs.



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Quadricycles L6- and L7- category

Environmental limit values for compression ignition diesel L6B-vehicles are reduced in a non proportionate way (Annex VI)

The EC proposes very severe short term pollutant emissions target for compression ignition diesel L6B vehicles. They are expected to reduce by 3,5 times their CO emissions in 2014 already. This reduction is not progressive, since CO limits remain identical for the 2017 stage. L6B are produced in low numbers by SMEs and their engines developed by suppliers, mainly for machinery applications, thus making the proposed limits both technologically and economically unattainable at such short term horizon.

CO Limit values for L6B must be reviewed in order to take into account the specific characteristics of these vehicles and their supply chain- ACEM proposes a CO limit of 3500 mg/km for Euro 3 and 1900 mg/km for Euro 4.

The setting of maximum mass for L6- and L7-category vehicles is premature (Annex I)

Not only the safety and environmental requirements for L6- and L7-category vehicles will generate extra weight, but in addition, the delegated acts will determine new requirements for

- Front and rear protective structures,
- Vehicle occupant protection, including interior fittings, head restraint and vehicle doors,
- Vehicle structure integrity.

ACEM supports that L6- and L7- category maximum mass must be reconsidered in light of the future technical requirements both categories L6 and L7 will have to meet, i.e. after the publication of the corresponding delegated acts.

The maximum mass for L6 and L7 should be specified as unladen mass instead of in running order

Current directive 2002/24/EC foresees a maximum “unladen mass” of 350 kg, 400 kg, and 550 kg for L6, L7 for transport of passengers, and L7 for transport of goods respectively, while the current proposal specifies the same figures, but for “mass in running order”, in itself a more stringent requirement.

Also in light of the previous point, ACEM supports using “unladen mass” as maximum mass criteria for L6 and L7 vehicles.

C. Administrative requirements

The disclosure of repair and maintenance information (RMI) must take into account size of manufacturers and support the wider goals of the regulation (chapter XVI)

ACEM agrees on the principle of sharing vehicles' repair and maintenance information (RMI) following the provisions already set up for the automobile sector, with the adaptations necessary to take into account the smaller dimensions of motorcycle manufacturers and the higher number of dealers/repairers. However the current EC proposal even goes beyond current RMI automobile obligations, which ACEM considers unjustified and non proportionate. The large number of SMEs active in the motorcycle sector will make the setting up of an RMI system and its maintenance particularly challenging in terms of logistics and costs, and prohibitively incompatible with the application date of 2013 foreseen by the European Commission.

RMI requires a careful evaluation of the implications and suitable adaptation to the motorcycle sector, both from an economic and technical point of view, to ensure the system is viable for all players involved and supporting the wider goals of the regulation (simplification, environment and safety improvements).

Given the complexity of the issue, ACEM will submit separately more detailed proposals in February 2011.

The limits for small series are set for a “cottage” industry (Annex III)

The limits for small series foreseen by the current directive 2002/24/EC are reasonably set at 200 units a year per type of vehicle, per system, per component or per separate technical unit. In the proposed regulation, the future limits are drastically reduced and differ according to the subcategories. The maximum number to be qualified as small series have been lowered to 20 units a year for L1, L6A, and L7A, and 50 units a year for L3 and L5A.

These figures do not take into account the economic reality and the needs of manufacturers, especially SMEs, who cannot operate with restraints, which equal to maximum 2 to 5 vehicles a month for the whole EU market. Moreover, the extended impact assessment does not provide justifications for this severe reduction compared to current directive 2002/24/EC.

ACEM proposes to maintain currently applying provision set at 200 units per year for all L-category vehicles, as in directive 2002/24/EC.

End of Series (Article 46)

The conditions for End of Series have changed compared to current directive 2002/24/EC. The provision foreseeing that end of series vehicles shall not exceed 10% of the number of vehicles registered in the two preceding years is an improvement. However a drastic reduction in the fixed quantity is proposed by the EC, from 100 per Member State as in current directive 2002/24/EC, to 10 units per Member State in the proposed Regulation. Given the importance of this final sales year and in view of the succession of deadlines foreseen in the regulation, this item is of high concern. The



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extended impact assessment does not provide justifications for this severe reduction compared to the current directive.

The figure of 10 units per Member State is insufficient to take into account the economic reality and the needs of PTW distribution, which is characterised by a high number of sales points (dealers are SMEs, mostly family-run businesses). Furthermore, the seasonality of the market, with wide amplitude between peaks and drops, increases uncertainty on the stock levels in the outlets. For dealers, end of series provisions are of immediate importance as it allows them to sell out units still on their showroom floor, often purchased (early) in the previous year.

ACEM proposes to modify the EC proposal, setting the amount of end of series vehicles to 100 units per Member State for all L-category vehicles. The EC proposal also includes the requirement to issue new Certificates of Conformity for end of series vehicles, which is impractical and should be deleted.

Systems, components or separate technical units – (Article 52)

ACEM understands and supports the EC objectives to address systems, components or separate technical units which poses a significant risk to the correct functioning of essential systems, however it seriously questions the appropriateness of doing so within a regulation on type approval.

Article 52 § 1 has, for example, the unintended effect of preventing the sale of non type approved systems, components or separate technical units, which are necessary to take part in motorcycle sport activities not taking place on public roads. Access to such parts must remain possible, and their eventual illegal use on public roads should be addressed through other regulatory approaches and controls.

Furthermore, article 52 § 3 foresees that “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.” There is no justification for prohibiting the sale of any product in compliance with type-approval rules..

ACEM proposes to delete current article 52 (and as a result also article 53) and is available to eventually contribute to the drafting of new proposals.

Market Surveillance provisions must bring the conditions of level playing field (Chapter II General Obligations)

As a result of this regulation, manufacturers will have to resort to increasingly complex and costly components in order to meet highly stringent type-approval requirements. Whilst ACEM members will continue acting responsibly in respect of EU type-approval requirements, it is to be expected that current lack of compliance of many far-East low cost products will grow further. This not only has



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environmental and safety consequences for the consumer, but also puts responsible manufacturers meeting type-approval requirements at a competitive disadvantage.

ACEM therefore welcomes the new provisions regarding market surveillance and the related definitions of the different operators intervening in the supply chain. Significant improvements must be obtained in market surveillance, with the new provisions creating convergence conditions towards a level-playing field. Healthy and fair competition within the sector are the conditions to support the competitiveness of the European industry and employment in the European motorcycle sector.

ACEM calls for effective coordination and monitoring measures to be deployed at EU and national level, to ensure that market surveillance and type-approval authorities make use of the new measures in a fair and effective way (i.e. based on legitimate substantiated requests).

Contact:

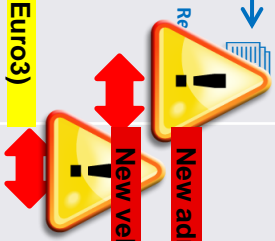
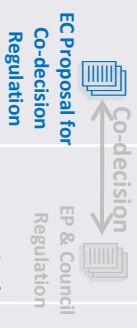
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2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
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Exist. Direct. repealed (incl. Euro3)

Euro 3

Simplification and increased reference to UN ECE Regulations, new definitions and categories

Additional anti-tampering requirements

Euro 4

Euro 5

OBD-I for L1B, L3, L5, L6A & L7A

OBD-I for L6B & L7B

ABS and/or CBS

Euro 6

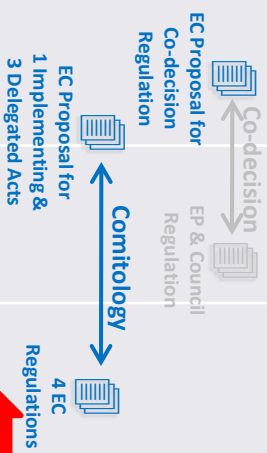
Subject to EC study by 1/1/2016

OBD-II

- █ Optional for new type-approvals
- █ Mandatory for new type-approvals
- █ Mandatory for new registrations (i.e. for all models)

Timeline: ACEM proposed amendments COM(2010) 542

2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
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Existing Directive repealed (including Euro 3)

Euro 3

New administrative requirements (repair maintenance information, market surveillance, etc)

Simplification and increased reference to UN ECE Regulations, new definitions and categories
Additional anti-tampering requirements, new vehicle construction requirements

Euro 4

Euro 5

OBD-I for L1B, L3, L5, L6A & L7A

OBD-I for L6B & L7B

ABS and/or CBS

Euro 6

Subject to EC study by 1/1/2016

OBD-II

- █ Optional for new type-approvals
- █ Mandatory for new type-approvals
- █ Mandatory for new registrations (i.e. for all models)

