
SMOTO's response to the public consultation on a proposal for a Framework Regulation on type-approval of two- and three-wheel motor vehicles

Question 1: What do you think of the use of one basic EU Regulation and the split level approach for the revision of the legislation on two- and three-wheelers? Why?

Since the administrative and processual measures (the fundamental provisions) in the directives are to be applied similarly in all Member States it seems reasonable to use one basic regulation instead of directives and implementing national rules. Therefore SMOTO generally supports these plans. However, what ultimately matters to the consumer are the technical requirements applied to their vehicles. Therefore care should be taken to ensure that before adaptation all technical requirements go through an open discussion by all relevant parties.

Question 2: Do you agree with the approach to increase the use of references to UNECE Regulations? Why?

Yes. The UNECE regulations have a wider scope of application (they apply also in many third countries) and are substantially identical or nearly identical to EC directives. This approach supports the purpose of simplification of the legislative framework by decreasing the amount of applicable rules.

Question 3: Which administrative measures introduced for motor vehicles (Directive 2007/46/EC) should not be included in the legislation on two- and three-wheelers? Why?

Measures introduced in articles 28 and 31 of the above-mentioned directive should not be included in the legislation on two- and three-wheelers.

According to article 28, only type-approved components and separate technical units are allowed an entry into sale or service, unless the components are intended for small series type approved or individually approved vehicles. This rule applies to all components and systems regulated in separate directives listed in annex IV of the directive. When it comes to motorcycles, for example mirrors, side stands, fuel tanks, speedometers, brake components and so on fall within the scope of separate directives.

According to article 31 of the directive, certain components that fall outside of the scope of separate directives, are still required to be tested and authorised in similar methods described in separate directives. Namely, parts or equipment capable of posing a significant risk to systems of the vehicle relating to safety or environmental performance must be tested and authorised before their entry into sale or use. Strictly interpreted, practically all parts of a motorcycle fall within this definition; forks, handlebars, frame parts, wheels etc.

Altogether, this may mean that only type-approved components or similarly tested components intended for EC type-approved motorcycles may be sold or entered into service after the implementation of new legislation. Accordingly, custom hand-made or otherwise individually manufactured parts, which play the most admired role in the motorcycle modification culture, may not be used in EC type-approved bikes unless the parts are type-approved or otherwise tested and authorised by the commission. Since the type-approval tests conducted by specially designated technical services are usually very expensive and in Member States such as Finland also very limitedly available it seems hardly likely that small-scale manufacturers would be able to fulfil the above requirements; the final price of a custom-made part would be simply too high.

It is inevitable that modifications should not compromise safety or have a notable impact on environment. As for regulating the modifications to EC type-approved motorcycles, these purposes of legislation, traffic safety and environmental protection, can nevertheless be in most cases reached through more simple and inexpensive measures. A considerable amount of research show that technical failures are very seldom a reason or even a partial reason in motorcycle accidents. At the same time it is true that a very large number of

motorcycles in traffic are somehow modified and statistics show that for example chopper- or cruiser-type motorcycles, which are often very highly modified, are actually under-represented in accident data. Most common technical defaults in accident data (approximately 3-4 percent of all accidents) are related to worn tyres or brake pads, which both are due to negligence in proper maintenance of a vehicle rather than modification.

In Finland there has lately been a significant progress in our national legislation concerning modifications of bikes, and there is even more to come. Nearly all kind of modifications to motorcycles lead to mandatory re-inspection in order to ensure that traffic safety or impact on environment are not compromised. The methods used in the inspection must be proportionate in relation to the goals, which has been the main interest in developing new legislation in Finland. In order to be able to continue developing good national legislation for modified and individually approved motorcycles in co-operation with local authorities and without unnecessary barriers based on EC law SMOTO suggests that the above-mentioned measures adopted in the directive should not be included in the new legislation. Instead, it should be left to national discretion of Member States to adopt rules concerning the approval of modifications to type approved motorcycles. SMOTO also reminds that the individual approval system introduced in the directive - while it is warmly welcome to two- and three-wheelers - is not an adequate system to regulate modifications of type-approved motorcycles.

This approach would have some significant benefits over the approach adopted in the directive. Most importantly, it would give much better operating conditions to small-scale manufacturers of motorcycle parts and accordingly widen the scope of available products for motorcycle consumers without compromising safety or environmental protection. Therefore, in our view, this approach is much better suited to the fundamental ideas behind the whole EU.

Question 4: Do you support the introduction of new emission limits for motorcycles equivalent to Euro 5 limits for petrol cars? Why?

As for environmental protection, *prima facie* there seems to be no reason why motorcycles should be allowed a different treatment compared to cars. However, two- and three-wheelers produce a relatively small part of traffic emissions as a whole. For example in Finland, depending upon the emission type motorcycle emissions constitute only 1-2 percents of total traffic emissions irrespectively of the fact that motorcycle population in Finland has more than doubled in a few years. Therefore, weight must be given to the cost-effectiveness-ratio of tightening the emission rules. However, SMOTO has not sufficient information to estimate the affect of tighter emission rules to consumer prices.

Question 5: Do you think that additional emission measures should be introduced in the legislation? Why? What is your opinion on the introduction of additional measures such as CO2 measurement, fuel consumption, etc.?

Strictly binding measures should not be introduced in the new legislation yet. For example, the CO2 emission level of motorcycles is relatively small already and manufacturers are already developing new technologies to reduce emission levels. Therefore, SMOTO thinks that for now it is too early to implement any new measures.

Generally, measures only concerning environmental protection may have a negative impact on the consumer prices of mass produced vehicles. This impact should be carefully evaluated before adopting tighter emission rules.

Questions 6-7: What is your view on the mandatory fitting of ABS on all motorcycles? Why? In your opinion, are there other/supplementary solutions better suited for certain categories (i.e. coupled braking, stability control systems, etc.) that would produce the same/better effect at better costs?

While SMOTO recognises the positive effects of ABS in many situations, SMOTO also recognises that ABS does not suite to all purposes, for example enduro-type motorcycles. In addition, there is no clear evidence on connection between ABS as safety equipment and accident frequency. Having in mind that the use of ABS is

also a matter of personal preference SMOTO suggests that ABS should not be mandatory but consumers should have a choice.

Questions 8-9: What do you think about the additional measures proposed by the TÜV study and the one proposed in the Motorcycle working group mentioned above? Why? Do you think other solutions should be preferred? Which one?

When it comes to anti-tampering rules concerning engine power limitations regulated in Chapter 7 of the Directive 97/24/EC SMOTO generally supports them, because there is good evidence about the positive effects of power limitations to traffic safety in vehicle categories governed by Chapter 7. However, a good care must be taken not to expand these measures to other areas; all anti-tampering measures should be strongly justified by proven empirical arguments related to safety or environmental protection. Arguments related to the *possible* effects on safety do not outweigh the consumers right to modify and personalize their vehicles.

Questions 10-11: Do you think that the option given to Member States to limit the maximum power of motorcycles to 74 kW should be maintained? Why? Do you think that alternative criteria could be used (i.e. Power-to mass ratio, acceleration potential) to limit the accident occurrence of motorcycles?

Accident research shows that rather than power or power-to-mass ratio the relative (statistical) accident frequency seems to depend more upon the "type" of motorcycle. For example, some motorcycle types such as "cruiser" or "touring" may have similar engine power than "sport" type motorcycles but still the first mentioned types have lower accident frequency ratio than "sport" types. Hence, SMOTO does not support limiting the maximum engine power of motorcycles or any alternative measures to the same effect.

Questions 12-16 concern four-wheelers and SMOTO has no position upon these vehicles.

Question 17: Do you think that EU legislation on hydrogen vehicles is needed? Why?

EU should further promote and enable the development and use of vehicles using non-fossil power sources and corresponding support networks. Many of these technologies, including but not limited to hydrogen as a power source, still have major disadvantages or they are missing key innovation making mass production non-sustainable. Legislation should open up the governance and approval processes in order to speed up the innovation also on experimental and small scale manufacturing.

Question 18-20: What do you think will be the impact of the range of measures that are outlined above on the competitiveness of the EU industry, and in particular SME's? What will be the impact of the measures on employment in the EU? Do you think that the measures proposed could have a significant impact on the final price of the vehicles? If yes, which ones?

EU was created to enable free movement of labour and products, and it is supposed to support and guard the interest of individual citizens. Unfortunately, many of the legislative initiatives seem to be rather supporting the needs of mega-manufacturers. E.g. complicated and costly testing and verification requirements are creating barriers of trade or even closing market segments from small business and individual initiatives. However, new innovation creating new employment and new business very often have very modest beginnings. Rich and healthy ecosystem with many, equally competing providers is also in the interest of the consumer. EU should take great care, that the legal ecosystem is ensuring this.

The measures stated in SMOTO's answer to question 3 are likely to have a significant effect on the final price of custom manufactured parts of motorcycles. In our view, the costs related to approval of custom made parts

will be highly disproportionate in relation to the goals of the legislation. Therefore SMOTO rejects the adaptation of these measures and suggests a national level approach at this stage. Adopting a community-level approach would require quite much comparative technical research in Member States and an open discussion between all relevant parties.

SMOTO has lately been involved in developing a new legislation concerning motorcycle modifications in Finland and is able and willing to offer more specific information and help, should the Commission begin to develop a community-level approach in this issue.

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