



Consultation letter

To: All on the attached list

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Dear Consultee,

Consultation on the proposal for a Regulation on the protection of pedestrians and other vulnerable road users

1 This consultation concerns the protection of pedestrians and other vulnerable road users from collisions with passenger cars and light vans.

2 Specifically it seeks your views on

- a Commission proposal for a Regulation of the European Parliament and Council on the protection of pedestrians and other vulnerable road users;
- a consultation stage Impact Assessment prepared by the Department.

Summary of the Commission proposal

3 The European Commission proposal seeks to repeal Directive 2003/102/EC dealing with "the protection of pedestrians and other vulnerable road users" and also Directive 2005/66/EC concerning Frontal Protection Systems (Bull Bars) of new passenger cars. A proposed Council Regulation, whose technical requirements are to be defined in a separate Commission Regulation, will replace these two Directives. The technical requirements for Frontal Protection Systems will remain unchanged by the proposed Regulation but changes are proposed for Pedestrian Protection.

4 The proposal aligns broadly with the proposals for the "global technical regulation", including an extension of scope. Significantly, the Commission is proposing a reduction in the passive safety element of Phase II while including the use of active safety technologies. The Commission suggests that the active safety measures will deliver very significant pedestrian casualty reductions.

Vehicle scope

5 The proposal seeks to extend the scope of the legislation, removing the upper maximum mass limit for passenger cars (M1) and increasing the upper maximum mass limit for light goods vehicles (N1) from 2.5 tonnes to 3.5 tonnes. Under the current legislation (2003/102/EC), only those goods vehicles derived from passenger cars are within the scope, under the proposals this limitation will be removed.

6 The proposal recognises that there are feasibility concerns for goods vehicles of a "flat front" design. The Commission therefore proposes to exempt these vehicles from the passive safety element of the requirements and has suggested that "flat front" be defined as a vehicle where the R-point (driver position) is forward of or no further rearward of the front axle than 1000mm. Do you agree with this exemption?

7 Industry representation has shown that this definition will cause some vehicles to be exempt while other almost identical designs will be required to comply. This may offer a market advantage to certain manufacturers. It has been suggested that this issue may be resolved by changing the dimension from 1000mm to 1100mm. While this may resolve the equality issue, it may effectively exempt the vehicle class entirely. We would welcome your views on this issue?

8 Further, the proposal does not extend the exemption to 'flat front' passenger vehicles that carry up to 8 passenger seats in addition to the driver and are derived from goods vehicle design. This will create an anomaly whereby the vehicle would be exempt as a goods vehicle but subject to the requirements if seats were fitted. Do you think this is reasonable?

Active Safety

Brake assist

9 The proposal seeks to replace some existing measures aimed at reducing the consequences of a vehicle/pedestrian impact (passive safety) with measures that are intended to reduce the frequency of this type of accident (active safety). The Commission proposes the use of an enhanced braking function (Emergency Brake Assist) to deliver this benefit and predicts a very significant benefit from this approach. However, an analysis of UK accidents involving traffic employing this technology has failed to

identify a statistically significant effect.

10 The move towards adopting active safety as a surrogate for passive safety requires the consent of the European Parliament (Directive 2003/102/EC, Article 5(2)) and must be capable of delivering at least the same level of safety. As UK data does not currently support such equivalence, we believe the efficacy of the measure must be established by a Commission review that would report to the European Parliament and Council no later than 5 years after the introduction of the measure. Do you consider a review necessary?

11 The proposal suggests that the requirement for Brake Assist be implemented for new vehicle types within 9 months of adoption of the regulation. We would support an early introduction, particularly if the technology is able to deliver the proposed benefits. However, given the absence of any technical standards at this time, although they are under discussion, we believe this date to be optimistic - Do you think that Brake Assist should be introduced in the absence of technical standards? What do you consider to be reasonable timetable for introduction of Brake Assist?

Collision Avoidance Systems

12 The Commission has proposed that vehicles that are equipped with collision avoidance systems will not have to satisfy any of the passive safety requirements of the new Regulation. While there are developments in camera and thermal imaging technologies these are at an early stage and there are still significant hurdles to overcome. Even if these are addressed we believe that these systems will not be able to prevent every pedestrian strike even if they are able to reduce the impact velocity. Do you consider it appropriate to provide exemptions from passive safety requirements if collision avoidance systems are fitted?

13 The overall timetable for implementation is complex and long - final implementation occurring 11 years 6 months after adoption. For your ease we have attached our interpretation of the implementation plan. Do you consider the timetable to be reasonable?

Background

14 Although pedestrian casualties have fallen by a third since the mid 1990's, vulnerable road users are still a significant proportion of the UK's road casualties. In 2006 there were 30,982 pedestrian casualties and a further 16,196 pedal cycle casualties. Of these 675 pedestrian and 146 cyclists were killed while 6,376 pedestrian and 2,296 cyclists were seriously injured. In the European Union there are approximately 8000 pedestrian and 3000 pedal cycle fatalities each year.

15 In 2003, the European Parliament and Council agreed a new Directive (2003/102/EC) concerning the protection of vulnerable road users from collisions with passenger cars and light vans. This was the first piece of legislation to address the threat of the car to this casualty group.

16 The Directive implemented a two Phase approach with Phase I applying to new vehicles from October 2005 and Phase II scheduled for application in September 2010. The benefits from both phases were to be achieved by passive safety means, i.e. making the pedestrian impact areas "softer". Due to concerns at the time of adoption, Phase II was subject to a feasibility review and the opportunity for revisions to the requirements was agreed.

17 In 2004 the European Commission engaged the UK's Transport Research Laboratory (TRL) to conduct the feasibility review for Phase II of the Pedestrian Protection Directive. This review concluded that the required measures were not technically feasible for all vehicles.

18 Separately, in 2005, the European Parliament and Council agreed a further Directive (2005/66/EC) to control the performance and use of Frontal Protection Systems (Bull-Bars). These measures were also designed to reduce the consequences of impacts with vulnerable road users and the assessment criteria are largely based upon those developed for the Pedestrian Protection Directive.

19 While the European Community had led the way in introducing specific measures to protect vulnerable road users, the wider international community was developing a "global technical regulation" on the subject under the auspices of the UN ECE. The European Commission was an active member of this group.

20 The European Parliament is currently considering the Commission proposal.

Impact Assessment

21 Based on a benefit-cost analysis by TRL Limited[1], the Commission estimates about 1,128 lives could be saved across the European Union each year. This represents a total benefit in the order of $\text{£}6.1$ billion ($\text{€}8.8$ billion). Further, they estimate the cost of the passive and active safety requirements as being around $\text{£}685\text{m}$ ($\text{€}995\text{m}$) or $\text{£}47$ ($\text{€}68$) per vehicle and this will fall to the vehicle manufacturers and ultimately to the consumer. Therefore they estimate the benefit-cost ratio of their proposal to be in the order of 8.9:1.

22 However, the UK has concerns over the Commission's costs and benefits claims. The costs and benefits estimated by the Commission for both the Phase I and Phase II requirements are combined, although Phase I is already required. It is therefore difficult to estimate the level of cost assumed for the Phase II requirements alone. They also estimate the cost of installing Emergency Brake Assist systems will be negligible and have therefore used a zero cost for this measure in their calculations. In addition, their calculations of the monetary benefits are based on the assumption that the additional passive safety requirements would only produce 70% of the original monetary benefits expectations and that the installation of the Emergency Brake Assist system would raise these monetary benefit levels to 182% of those originally expected (assuming a zero cost for EBA). Having investigated these concerns, the UK has conducted a consultation stage Impact Assessment (IA) for the Commission proposal which includes the following assumptions:

- the costs for the Phase II requirements are within a range between 5% and 30% of the total cost;
- Emergency Brake Assist systems cost $\text{£}24$ per vehicle; and
- Emergency Brake Assist systems deliver between 25% and 100% of the predicted monetary benefit.

23 Based on the above, our central estimate for the UK is that a benefit-cost ratio of 1.1:1, at a cost in the order of $\text{£}2,361\text{m}$, is more likely. The UK figures assume that the measures will be beneficial as long as the costs of the passive safety modifications are at, or below, 20% of the overall cost of the Phase I and Phase II proposals and that brake assist, which we have estimated to cost $\text{£}24$ per vehicle, is at least 50% effective. However, this estimate is subject to significant uncertainty and the overall outcome is highly sensitive to departures from these values. Whilst this may not compare too favourably with the

Commission estimate, it is still positive.

Issues for consideration

24 Your comments are particularly invited on whether:

- you support the general principle of the proposal to enhance the pedestrian protection requirement;
- vehicles with 'flat fronts' should be exempt - see paragraphs 6;
- the suggested change in dimension from 1000mm to 1100mm will avoid any risk of market distortion caused by the exemption, by effectively exempting the majority of light goods with a mass exceeding 3.5tonnes? - see paragraphs 7;
- passenger carrying vehicles that are derived from goods vehicles should also be exempt - see paragraph 8;
- the Commission should review the efficacy of Brake Assist no later than 5 years after the introduction of the measure and report to the European Parliament and the Council - see paragraph 10;
- you consider it reasonable to introduce requirements for Brake Assist in the absence of technical standards - see paragraph 11;
- the timetable for implementing Brake Assist is reasonable, given that technical standards are still under discussion - see paragraph 11;
- it is appropriate to provide exemptions from passive safety if collision avoidance systems are fitted - see paragraph 12;
- the timetable for implementation reasonable, with regard to its length and complexity - see paragraph 13;
- you foresee any unintended consequences of implementing the proposal;
- you think the costs and benefits of the options contained in the consultation stage Impact Assessment appear reasonable; and
- you think the assessment of the effect of the Commission proposal on competition and small businesses looks reasonable;

Comments

25 If you have any comments on the issues for consideration, the proposal or the consultation stage Impact Assessment, you are invited to send them on the attached response form, by 18 April 2008 to:

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76 Marsham Street
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SW1P 4DR

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email: joanna.bertoni@dft.gsi.gov.uk

Please contact me as soon as possible if the above deadline for comments causes you any problem, or if you have any other questions or views about this consultation and the way it has been carried out.

26 A list of the organisations included in this consultation exercise is attached. Please let us know if you think any further organisation should be consulted. If you have received a hard copy of this letter and wish to receive further consultations by email I should be grateful if you would inform me at your convenience.

27 This document will also be placed in the consultation section of the Department's website at <http://www.dft.gov.uk/consultations/>.

28 This consultation has been produced in accordance with the principles of the Government's "Code of Practice on Consultation", a copy of which is attached. Ministerial approval has been given for a shorter consultation period of 6 weeks in order for him to consider your views prior to the anticipated vote on the proposal before the summer. To mitigate the effect of a shorter written consultation period, a series of stakeholder meetings have been held with industry and road safety interest groups.

29 A summary of responses to this consultation will be published on our website: www.dft.gov.uk after the consultation period has closed.

30 According to the requirements of the Freedom of Information Act (2000), all information contained in your response to this consultation may be subject to publication or disclosure. This may include personal information such as your name and address. If you want your response or your name and address to remain confidential, you should explain why confidentiality is necessary. Your request will be granted only if it is consistent with Freedom of Information obligations. An automatic confidentiality disclaimer generated by your email system will not be regarded as *binding on the Department*.

Yours sincerely,

Joanna Bertoni (Mrs)

Implementation Plan (DfT interpretation)

Implementation plan

Code of Practice on Consultation

The code of practice applies to all UK public consultations by Government Departments and Agencies, including consultations on EU directives.

Though the code does not have legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), it should otherwise generally be regarded as binding unless Ministers conclude that exceptional circumstances require a departure.

The code contains six criteria. They should be reproduced in all consultation documents. There should be an explanation of any departure from the criteria and confirmation that they have otherwise been followed.

Consultation criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the time-scale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feed back regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out an Impact Assessment if appropriate.

A full version of the code of practice is available on the Better Regulation Executive web-site at:

<http://bre.berr.gov.uk/regulation/documents/consultation/pdf/code.pdf>

If you consider that this consultation does not comply with the criteria or have comments about the consultation process please contact:

Rachel Ward
Consultation Co-ordinator
Department for Transport
Zone 1/33
Great Minster House
76 Marsham Street
London SW1P 4DR

Email: Consultation@dft.gsi.gov.uk

List of consultees: Organisations

ACPO Road Policing Committee	All Party Parliamentary Cycling Group
Automobile Association	Automotive Distribution Federation
Automotive Group	BHW Group
Bentley	BMW
BRAKE	Britpart
Brookwell	CACFOA Transport Group
Camelot Automotive Components	Campaign for Better Transport
Child Accident Prevention Trust	Chrysler UK Limited
Concept Mouldings	Convention of Scottish Local Authorities
Cotswold Motor Spares	Crown Prosecution Service
Cycle Campaign Network	Cycling England
Cyclists Touring Club	Department of Transport Eire
Department for Business, Enterprise and Regulatory Reform	Department of the Environment and Local Government Eire
Department of the Environment (NI)	Devon 4X4 Ltd
Direct 4X4	Driving Standards Agency
Driver & Vehicle Standards Jersey	Driver & Vehicle Testing Agency NI
Federation of Small Businesses	First Four Off Road
Freight Transport Association	Ford Motor Company Ltd
4x4 Accessories & Tyres	General Motors
Halfords Ltd	HM Customs & Excise, Logistics Services - Vehicles
Health and Safety Executive	Home Office
Health & Safety Executive for NI	Honda (UK)
House of Commons Library	IAM Motoring Trust
Jeanne Breen Consulting	JNK 2000 Ltd
LACORS	Land Rover

LDV Group Ltd	Living Streets (Pedestrian Assn)
Local Authority Road Safety Officers Association	Local Government Association
London Cycling Campaign	Lotus
LMMC Ltd	LTI Vehicles
Mercedes-Benz UK Limited	Mini
Ministry of Defence	Motor Industry Research Association
Millbrook Proving Ground Ltd	National Assembly for Wales
Nissan UK	National Council on Inland Transport
Northern Ireland ADI Association	Northern Ireland Chamber of Trade
Parliamentary Advisory Council for Transport Safety	Palm Automotive Ltd (Van Style)
Police Federation	Peugeot Motor Company Plc
Police Federation for Northern Ireland	Police Authority for NI
Police Service of Northern Ireland	PWS Engineering Ltd
RAC	RAC Foundation
Ramblers Association	Rolls Royce
Road Safety Council of Northern Ireland	Renault Trucks UK Ltd
ROSPA	ROSPA (NI)
Retail Motor Industry Federation	Road Haulage Association
Road Operators Safety Council	Royal Scottish Automobile Club
SAIC MOTOR	SMMT Ltd
Scottish Executive	Scottish Motor Trade Association Ltd
Scottish Office	Society of Operations Engineers (SOE)
Specialist Leisure	Superwinch Ltd
Surrey Off-Road Specialists Ltd	Sustrans
TATA	The Access Co (Walking Interests)
Toyota UK	Trading Standards Institute
United Road Transport Union	VBRA

Vehicle and Operator Services Agency	Vehicle Certification Agency
WHICH?	

[1] TRL Limited - A Study on the Feasibility of measures Relating to the Protection of Pedestrians and Other Vulnerable Road Users