

EU proposals on roadworthiness testing – FBHVC report

The EU Commission has produced a draft Regulation (COM (2012) 380) on periodic roadworthiness tests for motor vehicles. There has been much comment in the media on the subject, not all of it well-balanced or accurate, and much based upon a misunderstanding of the workings of the EU. In fact, within the EU, the work of examining the draft is only really beginning now.

On 17th October, the **House of Commons European Scrutiny Committee** considered the implications of the proposal. The position of historic vehicles was not mentioned directly but the report of that meeting makes it clear that the UK Government opposes the proposed Regulation on the fundamental grounds that it breaches EU 'subsidiarity' principles because it would place a significant financial and regulatory burden on Member States while doing little for road safety. Put simply, the UK Government believes the proposal to be out of proportion.

The **EU Council** discussed the proposal on 29th October. It is clear from the press release on that debate that there are similar misgivings amongst many other EU Governments, in particular there was strong feeling that the **legislation should be a Directive instead of a Regulation**. A Directive sets out general rules to be followed by each EU state legislating for the detail as it sees fit, whereas a Regulation sets out precise rules which have to be adopted exactly into the laws of EU States without amendment: it seems most Member States prefer an element of flexibility. It must be understood that the purpose of that debate was to scope how the proposal goes into specialist preparatory bodies who will then argue out the details. There is a long way to go before that task is complete.

So, at exactly the right time, **FIVA**, at its General Assembly on 27th October, considered the text of a paper to set out a consistent FIVA approach, in the form of a draft letter which the member Federations in the EU, including FBHVC, can submit at a suitable time to their respective Governments. The letter took account of the views of the FBHVC as expressed in a letter sent to FIVA prior to their meeting, especially as regards the difficulty of using the words 'historically correct condition' in a legal definition.

The **primary points of the FIVA letter** are the letter:

- Supports the aim of excluding historic vehicles from the remit of any future pan-European testing regime, which will necessarily be adapted to the needs of modern, sophisticated, motor vehicles. The letter makes reference to the limited use and ownership by people whose understanding of their vehicles will in many cases be greater than that of the tester.
- Supports the view that the proposed Regulation would be better and more workable as a Directive.
- Agrees the use of a thirty year point at which a vehicle is to be regarded as historic. It supports the principle that the testing of vehicles over this age should be the responsibility of individual Member States.
- Strongly questions the further three parts of the proposed definition of a historic vehicle:
 - That maintenance has to have been done using 'replacement parts which reproduce' the original components, on the grounds that over the years parts used may be different, and gives tyres, windscreen wipers and windows as specific examples;
 - That the vehicle has not had any of its major components, such as engine, brakes, steering or suspension, changed, on the basis first, that very many historic vehicles have undergone such changes through their lives for reasons including the improvement of safety and road behaviour, and second, that the words 'such as' in the draft make the actual definition of these components unclear; and that the vehicle has not been changed in its appearance, on the basis that over the years very many historic vehicles have been re-bodied and altered, some as early as the 1920s and 1930s.

The letter argues that, whether the proposal is to remain a **Regulation** or to become a **Directive**, the test of whether a vehicle qualifies for special treatment should simply be a matter of age, and that questions of historic correctness should not come in to it. The letter did, however, propose only minor changes to the recital in the preamble to the legislation (which is there to explain the reasoning behind the substantive clauses). FIVA propose that this should now read as: Recital (9): Vehicles of historic interest conserve heritage of the époque in which they were built, are maintained in a historically correct condition and are rarely used as everyday vehicles; it should be left to Member States to extend the period of periodic roadworthiness testing for such vehicles. It should also be for Member States to regulate roadworthiness testing of other types of specialised vehicles.

The FBHVC will now concentrate on taking this policy forward to the UK Government, including making sure they do fully address the detailed points we have raised in case the overall UK view, that any change to the roadworthiness testing regime is currently not justified, does not prevail. It must be emphasised that the EU proposal is not to exempt historic vehicles from testing as such, but to allow Member States to decide if and how they wish to test such vehicles. In UK, for instance, the government could expect vehicles over 30 years old to be tested on exactly the same basis as at present, but they would not have to demand that roadworthiness testing for historic vehicles should include checks against original specification.

The Federation of British Historic Vehicle Clubs exists to uphold the freedom to use old vehicles on the road. It does this by representing the interests of owners of such vehicles to politicians, government officials, and legislators both in UK and through membership of Fédération Internationale des Véhicules Anciens (FIVA) in Europe.