

MEMORANDUM

To: Legislation Commission
From: Andrew Turner
Date: May 2010
Re: Roadworthiness Testing - **UPDATE**

Dear all,

You may recall that at the end of last year FIVA circulated a memo on Roadworthiness Testing which explained the current situation and asked ANFs to answer a few questions regarding Roadworthiness Testing in each Member State.

The European Commission is currently negotiating with an outside agency to manage a public consultation for the planned review of the Existing EU Roadworthiness Testing Directive. This process is expected to be complete by the end of June and the public Consultation will then start in July.

In order for FIVA to be able to best contribute to that consultation and ensure that FIVA's interests are not impacted by any new proposal, we do need as much information as possible from the ANFs. If you did not answer the questions (detailed at the end of this memo) last year, please do so now.

ADDITIONALLY: further to those questions posed last year, there is ANOTHER question FIVA would like answered by all ANFs:

Question: if your country applies separate roadworthiness testing rules to Historic Vehicles, could you please detail the definition of a historic vehicle used in the law for the purpose of applying the specific testing conditions?

November 2009 memo:

Further to discussions in Turin with some Legislation Commission members on Roadworthiness Testing below please find a summary of recent mails, detail of those discussions and requested actions.

Background

The European Commission is working to amend the Roadworthiness Testing Directive. It is using 2 decision making procedures to do so:

1. The Comitology procedure – this is used to ensure that Directives maintain relevance with technical advances. It involves civil servants from the Member States and relevant European Commission officials deciding how to change technical aspects of existing Directives. The European Parliament can either approve or reject the proposed changes. The procedure is not

very transparent, but it has been devised to speed up the decision making process on matters of a technical – but not principle - nature.

2. The Co-decision procedure: this is used for matters of principle – for new legislation and to amend existing Directives. It involves: formal public consultation by the European Commission to help it draft/or amend a proposal for a Directive followed by scrutiny by the European Parliament and Council. This is the procedure most of the issues FIVA has worked on over recent years has followed. It can take years from start to finish.

Changes to the technical provisions of the Directive are currently being made under the Comitology Procedure.

The Commission will then next year (and after the new European Commission is in place) start work to amend the principles of the Directive. FIVA will be able to comment at all appropriate stages of this process if necessary. To our knowledge the Commission has NO intention to change the provisions on historic vehicles in the existing Directive, which are that:

Recital 20: Member States may, if appropriate, exclude from the scope of this Directive certain vehicles that are considered to be of historic interest. They may also establish their own testing standards for such vehicles. However, such a right must not lead to the application of stricter standards than those which the vehicles concerned were originally designed to meet.

Article 4.2: Member States may, after consulting the Commission, exclude from the scope of this Directive, or subject to special provisions, certain vehicles operated or used in exceptional conditions and vehicles which are never, or hardly ever, used on public highways, including vehicles of historic interest which were manufactured before 1 January 1960 or which are temporarily withdrawn from circulation.

Article 4.3 Member States may, after consulting the Commission, set their own testing standards for vehicles considered to be of historic interest.

The possible proposed changes of the Directive next year will be:

1. Changing the frequency of testing from cars from the current 4 years after the date when the vehicle was first used and thereafter every two years to 4 years and then every year.
2. Setting in place the clear condition that testing standards will be based on those at the time of the first registration of the vehicle concerned – this is intended to be positive move – i.e to ensure that the brake system of a 37 year old vehicle does not have to meet the standards of a modern vehicle.
3. Including motorcycles and trailers under 3500 kg into the scope of the Directive

The recent discussions have indicated that:

- VERY FEW countries have actually imposed different testing regimes (as allowed by the Directive) for historic vehicles - consequently, the provision dictating that the testing standards be based on those at the time of the first registration of the vehicle concerned is essential.

- modern testing equipment is increasingly sophisticated and therefore also increasingly sensitive and it is likely that in the future the actual testing will also be increasingly automated. This means that:
 - historic vehicles may be being scrutinized much more rigorously now (and in the future) than would have been the case in past years with the effect that a historic vehicle may today fail its roadworthiness test when previously the same vehicle in exactly the same condition would have passed the test – for example low-level vibrations which would be expected and which do not impact the safety of the vehicle might be detected by modern equipment and consequently lead to the vehicle failing the test
 - the human perspective in the testing process will increasingly be lost. Automated testing machines will increasingly be used, but these can only determine a pass or fail – historic vehicle owners will be disadvantaged because the human intervention can allow a common sense view on the vehicle taking into consideration the overall dynamics and actual design of the vehicle which might allow a vehicle to pass a test which would have been failed by an automated machine.
 - the provision that the testing standards be based on those at the time of the first registration of the vehicle concerned can also be problematic for example – the ban on the use of asbestos in brakes means that historic trucks/buses using modern brake pads but which were designed to use asbestos brakes can no longer achieve the braking effectiveness expected at the time when the vehicle was designed.

In light of the above, I would appreciate further views on these points – particularly to determine if they are common experiences across the EU. If this is the case, FIVA needs to determine whether it should be common practice for member states to “set their own testing standards for vehicles considered to be of historic interest”. If so, it will be a matter for national Federations to lobby their Governments to develop separate testing regimes in order to avoid these unintentional consequences. **Please note** however, that this may lead to national laws allowing older testing equipment to be used for historic vehicles. If this occurs, some historic vehicles may only be able to be tested at garages which choose to use older equipment; as only select garages would be expected to maintain such equipment, it may mean that owners may have to travel greater distances in order for their vehicles to be tested.

However, if we conclude that historic vehicles are increasingly being disadvantaged in the testing process as a result of the above observations we may conclude that overall the best scenario is for member states to develop separate testing regimes for historic vehicles. If so, FIVA might also want to propose to the EU that the definition of a historic vehicle in the Directive be changed to more closely reflect the FIVA definition of a historic vehicle so that member states may also use that definition when developing the new testing regime.

Next steps - questions

FIVA has a short period of time to consider its position on this matter in advance of a EU consultation expected to start early next year. To help determine whether FIVA should be proactively proposing changes to the current EU Directive - and also helping national federations to lobby their governments to impose separate testing regimes for historic vehicles, I would appreciate answers to the following questions:

1. In your country, is there a separate roadworthiness testing regime for historic vehicles? (FIVA has previously asked this question to members but the result only shows the conditions impacting HVs and does not show whether it is a separate HV regime)
2. In your country, have you noticed that modern testing equipment is resulting in more historic vehicles unexpectedly/unnecessarily failing their roadworthiness test ?
3. If yes: do you think that a separate regime for historic vehicles may now be appropriate?
4. Are there any cases where historic vehicles are unable to meet the testing standards of those at the time of the first registration of the vehicle concerned – such as the brakes example mentioned above?

Regards,

Andrew Turner

EPPA