



The European Consumers' Organisation

BEUC/X/027/2006

03 May, 2007
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***BEUC comments
on the Commission's Communication on the Cars 21 report***

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Executive summary

We are disappointed by the Commission response to the Cars 21 High Level Group Report “A Competitive Automotive Regulatory System for the 21st Century”. We thought the Commission would not simply adopt the recommendations of this report but be critical and also take into account the responses of the public consultation, which we participated in. The latest communication¹ on the Cars 21 report shows that this has not been the case. Yet, the Commission states that its communication reflects extensive stakeholder consultation and dialogue. We regret also the limited attention paid to the importance of competition in the improvement of the competitiveness of the sector. The after market and, in particular, the industry of independent distributors and repairs, are given little consideration. A consistent regulatory framework for the automotive industry must also include the independent after-market (replacement, repair).

In the environmental area, the Commission strategy to reduce CO₂ emissions from cars is very insufficient. Its proposal to develop a legislative framework, to implement the car CO₂ emissions target, and to opt for an integrated approach, involving car manufacturers, Member States and consumers, is rather positive. However, it only plays down the significance of individual car emission values. Moreover, the Commission strategy clearly lacks ambition as it does not foresee any long term target to address the threat of climate change on future generations.

In the road safety area, the Communication’s vehicle-related actions including electronic stability control, as well as its holistic approach to road safety are welcomed by consumer NGOs. However, our concerns centre on the minimal attention given to the long-overdue revision of the Directive on Pedestrian Protection, to occupant protection measures, and to relatively simple technologies, such as intelligent speed adaptation and alcohol locks that can improve road safety.

Overall comments

The Commission presents the Cars 21 High Level Group represent all the main stakeholders. We would like to reiterate that consumers are not represented in this group. We already expressed at several occasions our concerns regarding the establishment, composition and method of working of the group itself.

Besides, the main solutions for the problem of low competitiveness lie within the car industry itself and in more market liberalization. Although we are in favour of better, in terms of more effective, regulation, the Communication focuses on regulatory aspects, whilst competitiveness is best encouraged by competition. In particular, car companies should re-focus their efforts on building better cars.

The communication presents the direction in which the Commission intends to steer future automotive policy. We would like to stress the importance of monitoring the implementation of this roadmap. Even though consumer organisations were not included in the Cars 21 Group, it is crucial that we are invited to join any monitoring mechanisms that have been envisaged as well as in the mid-term review in 2009. The Commission’s proposal to issue an annual working paper on UNECE work and the comitology process is a positive step. In line with the Commission commitment to transparency, we hope to have access to these working papers.

¹ COM(2007) 22 final.

An industry in transition?

We do not share entirely the analysis of the Communication, regarding for instance the alleged aggressive price competition amongst manufacturers, since segmentation of the Internal Market seems still prevalent, as consumers are still faced with substantial price differences, which a high degree of variation according to the brand and the country considered.

One of the structural features of the car market in Europe is that the manufacturers are the dominant sector in the distribution chain – in contrast to food distribution, for example, where power is more focused at the level of the big retailers. The effect of manufacturers' power in car distribution has been to weaken the competitiveness of the manufacturers themselves. They have been shielded from demand from a relatively weak or even "captive" distribution network. They have also "taken their eye off the ball" by focusing on increasing profits from financial services, at the expense of making better cars.

To be competitive on the world market, one needs to be competitive on the home market. For a long time, the European car industry has been at least partly sheltered from competitive pressures at home, notably under the 1475/95 Car Block Exemption. This might explain at least partly the current lack of 'competitiveness' of European car manufacturers.

This Regulation allowed manufacturers to fragment the Single Market and artificially keep prices high in certain countries. Competition between dealers of the same brand (intra brand competition) was limited. Even the inter brand competition was limited as a result of market sharing. Mostly because of the anti-competitive behavior of most brands (the so-called 'black' practices), parallel import was not worth the effort for consumers and consequently there were very few parallel imports.

BEUC broadly welcomed the new Car Block Exemption, although it will take time before its effects are felt. The Commission's recent studies on car prices show that price differentials have remained substantial, even for car segments where there are many models, and between member states with the same tax level.

A narrow focus on the alleged regulatory costs as such could mean that measures to protect the environment are sidelined, whilst they are increasingly considered necessary for the economic survival of our societies, with depletion of natural resources, pollution, climate change amongst others having potentially a direct impact on our daily lives – and also on the economy.

Environmentally sustainable road transport: reduction of CO₂ emissions

In 1996, a Community strategy² set up a target for new cars of 120 grams per kilometer by 2012 to reach the Kyoto objective of 8% of CO₂ by 2008-2012. The target was supposed to be reached using three pillars: labelling of cars to provide consumers with information on the fuel efficiency of cars (car labelling Directive³), taxation related to CO₂ and the voluntary agreement by car manufacturers signed in 1998.

European car manufacturers committed themselves to reach a target of 140g/km of CO₂ by 2008 and 120g/km by 2012. These targets were undoubtedly achievable by means of vehicle technologies. Unfortunately, the sector was seen as the worst performing one in the context of the Kyoto protocol, as its emissions in the EU increased by 32% between 1990 and 2004. Different studies recently showed that 75% of European car manufacturers are set to miss the target if present trends continue. Today the average car emits 160g/km.

² Communication from the Commission "A community strategy to reduce CO₂ emissions from passenger cars and improve fuel economy", COM(95) 689 final.

³ Directive 1999/94/EC relating to the availability of consumer information on fuel economy and CO₂ emissions in respect of the marketing of new passenger cars.

The self-commitment of cars manufacturers to reduce CO₂ emissions, just like the vast majority of self-commitments, has proven not to be efficient. In our paper on voluntary environmental agreements⁴, we denounce the increasing use of self-regulation in the environmental area by decision-makers, instead of using traditional legislative instruments. They often lack transparency, ambition and efficacy, and we identify many drawbacks including the fact that no system of sanctions, incentives, or punishments apply. Instead, clear-cut regulatory measures should always be adopted.

The High Level Group Cars 21 report recommended adopting an integrated approach for further CO₂ reductions. In our related comments in May 2006⁵, we already denounced the fact that the measures proposed (e.g. eco-driving and gear shift indicators, consumer information, measures to avoid congestion) were devised to play down the significance of individual car emission values. In our view, marginal values, such as Gear Shift Indicators and the use of alternatives fuels such as biofuels, despite their importance, should not be an alternative to improving energy efficiency of cars.

Unfortunately, in its communication on the Cars 21 report as well as in its communication for a revised strategy to reduce CO₂ emissions⁶, the Commission has followed the Cars 21 recommendations without taking other stakeholders' views into account. Of course, we welcome the announcement of a legislative framework to reduce CO₂ emissions from cars although it is a very late reply to the lack of efforts made by manufacturers. However, the Commission strategy is, in our view, very insufficient and lacking ambition. It only consists of reducing the burden on car manufacturers by combining a revised 130g/km target with other technological improvements. An integrated approach is always welcome but the use of other technological adaptations, including gear shift indicators, the use of bio-fuels or accurate tyre pressure, should not replace efforts to be made by improvement in motor vehicle technology. They should, on the contrary, contribute to an additional reduction of CO₂ emissions to the 120g/km target by 2012. It is crucial that all kinds of improvements are measurable, accountable and can be easily monitored. The Commission states that the legislative framework will be based on a thorough impact assessment. We hope that contributions from interested parties other than the Cars 21 report will be taken into account in this process to ensure that social, economic and environmental impacts will be equally considered.

We regret that no clear deadlines are foreseen for the different Commission proposals, not even for the legislative framework which is vaguely suggested to be proposed in 2007 or mid-2008.

In its communication on the Cars 21 report, the Commission also foresees additional efforts from consumers by means of informed choice and responsible driving behaviour to contribute to CO₂ emissions reduction. It is true that consumers can play an important role in the reduction of CO₂ emissions by choosing more efficient cars but their decision needs to be guided towards better products. This could be achieved by means of improved and harmonised car labelling across Member States, e.g. by introducing a Europe-wide scheme of graphical displays, using comparable grades. Indeed, we recommend that cars are incorporated in the EU energy-labelling scheme, to facilitate consumer choice at the point of purchase/hire. In addition, as there is a clear discrepancy between the political interest and objective, and the increasing market for heavy and fuel intensive passenger cars, we believe that a mass market of most efficient passenger cars is needed to maintain personal mobility and maintain the freedom of choice for consumers.

⁴ ANEC / BEUC position on "Voluntary environmental agreements", October 2006 (in attachment).

⁵ BEUC comments on the Cars 21 High Level Group final report "*A competitive Automotive Regulatory System for the 21st century*", May 2006 (in attachment).

⁶ Communication from the Commission "Results of the review of the Community Strategy to reduce CO₂ emissions from passenger cars and light-commercial vehicles", COM(2007) 19 final.

Besides the importance of changing consumers' behaviour, the best means to achieve the CO₂ reduction target still remains binding regulation of fuel consumption across the European car fleet.

Overall, we deplore that the Commission does not foresee the setting up of clear and ambitious long term objectives, by e.g. 2020 and beyond. Sustainable mobility today needs to be considered, not only to tackle climate change and the degradation of the environment, but also the increased dependence on imports and higher energy prices by boosting EU energy security and competitiveness. Climate change is one of the most serious environmental, social and economic threats we have to face.

Increasing road safety

The Commission's further delay in proposing concrete amendments of phase II of the Pedestrian Protection Directive⁷ is disappointing. A regulation replacing the Directive on the protection of vulnerable road users is long overdue and should be adopted. We would welcome a more specific timeframe for this revision. We are aware that the discussions on a Global Technical Regulation (GTR) on Pedestrian Protection have already begun at the UNECE level, and the main issue is the extension of its scope. To assist this process, ANEC and BEUC would once again like to highlight three issues that would need to be included in the planned amendment. Firstly, we would urge a rapid implementation of the measures to apply the second stage standards. Secondly, we would seek to ensure that the inclusion of active safety devices were additional to passive safety benefits derived from improved vehicle design, and not a substitution. Finally, we urge the Commission to ensure that the bonnet leading edge to upper leg test be retained as a standard rather than merely be retained for monitoring purposes. This would ensure that injury levels would decrease rather than injury patterns change as the most aggressive contact point migrates from the bumper leading edge upwards to the bonnet leading edge.

We welcome the move towards international harmonisation of motor vehicle regulations. However, we are concerned that self-testing or virtual testing procedures often disadvantage consumers, and are abused by some manufacturers.

Speed and alcohol are two major causes of road accidents. Speed management via Intelligent Speed Adaptation technology (ISA) and alcohol locks should therefore be included in the Commission policy in order to increase safety for all road users.

We would also like to reiterate that an important issue missing from this report is that of occupant protection at the time of a crash. Simple technologies, such as air bags, can help save lives and these should be further promoted.

Competition in the aftermarket

The Commission is looking at the competitiveness of the car industry mainly from the perspective of the primary market (new cars). The after market and in particular the industry of independent distributors and repairs is given little consideration. We strongly believe that a consistent regulatory framework for the automotive Industry must also include the after-market (replacement, repair). The after-market has a high potential to contribute to the achievement of important objectives in the Internal Market.

⁷ Directive 2003/102/EC relating to the protection of pedestrians and other vulnerable road users before and in the event of a collision with a motor vehicle.

In this respect, we would like to reiterate our support to the Commission's proposal⁸ which intends to liberalise the secondary market for spare parts for cars throughout the EU⁹. Currently, the EU Market for spare parts is a patchwork of different rules. In some countries design protection applies to spare parts, but not in others. This situation creates internal market obstacles and inequalities in consumers' expectations across the EU.

Applying full design protection to spare parts in the secondary market would create an unjustified monopoly in the hands of car manufacturers. Consumers would be deprived of the right to choose how and where to have their cars repaired at competitive prices, thus becoming "captive" consumers. The Commission's proposal would improve competition and therefore competitiveness in the after market.

The original manufacturers of car components already have and will continue to have (despite the "repairs clause") design rights in relation to the original component in a car and to the car itself. But design protection laws are not well fitted to regulate the after market of spare parts¹⁰.

We welcome the proposal of the Commission on access to repair information for independent operators and the introduction of the OASIS standard into the Euro 5 Regulation. The technical advances in car manufacturing do render vehicles more complex and difficult to repair. Thus, a "standardised" access to vehicle repair information for independent operators is essential in order to give consumers a "real" choice when they have to have their cars repaired.

END

⁸ Proposal for a directive amending directive 98/71 on the legal protection of designs: Com/2004/582 final.

⁹ See also BEUC/X/045/2004 and BEUC/X/009/2007 at www.beuc.eu.

¹⁰ Design protection exists to avoid that a design is copied by others. But when the body of a car has to be repaired, the exact original appearance of a car has to be restored. In other words, there is no design alternative for these parts. As there is no design alternative, there should be no design protection.