

European Brief



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A SINGLE MARKET FOR DEFENCE

A measure to control the illegal adaptation of mopeds has become a means of preventing legal activity for all motorcyclists

A Classic Case Of Legislation Run Amok

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WITHIN the proposed Directive on Certain Characteristics of Two or Three Wheeled Vehicles (COM (93) 449 final), there is an ambitious and worrying chapter on anti-tampering. Ambitious because it breaks new ground in the way regulation is enforced and worrying in the way it has become extended for no good reason.

There are some member states, notably France, that have a very real problem with moped riders who are able to ride without licence or insurance from as young as fourteen.

Having tasted the freedom of the open road and the pleasure that two wheeled transport offers at an affordable level, an impatience naturally develops as a wait of sometimes four years is needed before progression to a 'proper' motorcycle.

The solution for many is to squeeze more power from these machines by owner modification. Although such measures are illegal, the prevalence is such that it becomes difficult to enforce.

It may be suggested that a harmonisation of moped licensing legislation, as is due in two years, to the level of stricter members would offer a solution as this problem does not exist elsewhere.

It is also accepted that the European Union is not charged with the power to interfere in the internal matters of member states. Pan-European powers do exist however in the field of type approval.

European type approval means that once a machine is approved, it can be freely sold in any member state without having to meet further, differing approval procedures as is now the case.

There are 15 different types of moped in the Community with different specifications leading to an effective restriction on manufacturers entering mass production. Type approval is a sensible

move as it leads to lower costs for the manufacturer and more choice for the consumer. A single market with the same rules for all concerned is our main objective after all.

It was soon realised that type approval could be used as an instrument to solve the moped problem. This is where the point of enforcement changes because the intention is to compel the manufacturer to design their mopeds in such a way that will make increased power by modification impossible.

Various methods by which this could be achieved were studied and proposals made. This included such things as studs which shear should attempts to interfere be made; various manufacturing methods which would ensure self-destruction if they were worked on, and

Anti-tampering has been extended without any consultation with industry or motorcyclists

designs that would not allow interchangeability of parts that would increase power by more than certain percentages.

This anti-tampering chapter was proposed under article 100a which is intended to provide for harmonisation of provisions already laid down in other member states, even though these measures existed nowhere in the Union. In spite of this it was seen as an effective way of dealing with the problem.

It was not envisaged that it would significantly damage the moped market and so the decision was made to proceed. Just as a moped properly designed by experts could be made dangerous by

the tampering of those not qualified, this piece of legislation also became subject to tampering by the unqualified.

The French government suggested that if this was suitable legislation for mopeds then why not apply it to all motorcycles, or 'powered two wheeled vehicles', as they are now called? The 14 year old would be considered less than bright if he or she did not consider the consequences of an engine more powerful than the frame and brakes were designed for, or for which they had insufficient experience to handle.

Without a full expert appraisal, those with no relevant experience have shown a similar lack of consideration in applying moped legislation to all motorcycles, oblivious of the consequences. How could the legislative framework for mopeds be suitable for such an enormous extension on an apparent whim?

What was missed in applying this universally without reappraisal was an impact on industry; a restriction and heavy cost burden on the owner, and a completely groundless regulation.

Manufacturers often use commonality of parts as a cost effective form of production. Some use modular construction where many parts are, if not the same, then certainly interchangeable. Anti-tampering forbids this and may well lead to catastrophic consequences for some companies.

As with all motorcycle legislation, it is worth considering the discriminatory nature. Imagine applying this to cars, where a different camshaft, carburettor parts and trim may span a whole model range. This leads to higher costs for manufacturers and less choice for the consumer; the opposite of our intention.

The extra cost on the original machine is not the only consequence as the spare parts market becomes effectively a monopoly by the original manufacturers.

The aftermarket industry could not produce the requisite parts without the full co-operation of the motorcycle manufacturers. Even then they would find that every part could only be used on one particular model thereby necessitating a multitude of parts for the same number of buyers. We are not here to create monopolies.

Motorcycles offer a low cost form of transport for workers throughout the community and a great deal of service and repair is carried out by owners. In a situation where servicing of machines can be done only by registered dealers, a black market is bound to arise in spares and special tools, without the quality and safety procedures that currently exist.

Apart from the obvious financial implications on the owner, anti-tampering

also has implications on the right of motorcyclists to customise and modify their own machines. This right was established during the passage of the Motorcycle Type Approval Framework directive (92/61 EEC) and laid down the principle that type approval should apply only to the original design and not to vehicles that are in use.

This provision was to ensure that low volume manufacturers may continue and that users are able to alter or customise their machines subject to normal safety constraints. We should not allow hard fought concessions to be overturned by subsequent legislation that was not intended for such a purpose.

When the Commission was discussing this proposal in 1992, the Motor Vehicles Working Group agreed that anti-tampering should only apply to mopeds. It has been extended since then without any consultation with industry or motorcyclists themselves.

To believe that consultation with those who are affected and those who can provide expert advice is not necessary is the height of arrogance. The Commission must appreciate that it does not know what is best for everyone in all cases at all times.

THE second directive on the driving licence provides for restriction of learners to machines of 125cc or 11kW. Following this there is a two year waiting period when there is a restriction to 25kW or a power to weight ratio of 160kW/tonne.

This in itself is based on no more than prejudice without any justification. Once in place it forms an open invitation to the bureaucratically minded to pile on means of enforcement.

The anti-tampering proposals create three additional categories to the original moped only (category A). Category B and C match the learners' restriction and the two year wait respectively and category D for up to 74kW which presumably must now be open ended following the end of the power limit debacle.

This is a classic case of legislation run amok. What started as a measure to control the illegal adaptation of mopeds has become a means of preventing legal activity for all motorcyclists.

Of course, applying anti-tampering to these additional categories not only affects those that are bound to these restrictions, but those who are not. It stops someone entitled to ride an unlimited motorcycle from legally increasing the power of any machine. In short it stops a minority from doing something illegal by stopping everyone doing it even if they are entitled to. **EB**

High-growth SMEs have to be encouraged to sell shares to the public, so they can compete globally

A New Market For Small Firms

William Stevens, Dr Jos B. Pecters and Jonathan Freeman

AN efficient and dynamic capital market for entrepreneurial growth enterprises is essential for Europe. The most promising small and medium-sized enterprises, (SMEs), require competitive and efficient forms of finance to grow rapidly and to compete globally.

It is these fast-growing companies which create most of our economic growth, new jobs and competitiveness. These companies are the major employers of the future and their importance to the economic growth of Europe cannot be overestimated.

The main markets of the national stock exchanges in Europe, and the investors in these markets, generally focus on the large 'blue chip' companies. For example, the ten largest companies on the London market account for 23% of the total market capitalisation, in Paris 25% and in Amsterdam 74%.

During the 1980s, in an effort to provide more suitable access to equity finance for smaller companies, secondary and parallel markets were created by most of Europe's national exchanges – the London Stock Market launched the 'Unlisted Securities Market' in 1980, the Copenhagen Stock Exchange introduced 'Bors 3' in 1982, and the Amsterdam Stock Exchange launched the 'Officiele Parallel Market' in 1984.

However, all of Europe's secondary and parallel markets have faltered in recent times with some closing, (the Officiele Parallel Market), their closure being announced, (the Unlisted Securities Market), or the level of activity on the market being very low, (Bors 3).

This has left most of Europe's high-growth and smaller enterprises without suitable or efficient access to equity financing structures with liquidity. It is estimated that 56% of European companies employing more than 500 employees have raised capital by a listing on a stock exchange versus only 2.2% of companies with less than 500 employees.

This lack of a suitable equity financing infrastructure in Europe has also had a significant impact on the ability of Eu-

rope's venture capital companies to raise new funds. There are now an estimated 15,000 companies in Europe with venture capital financing, which represents a total investment of some Ecu 20 bn (at cost).

Institutional investors in venture capital funds have become increasingly concerned at the lack of liquidity for these investments, and as a consequence are now limiting the funds available for this type of investment and hence further limiting the availability of finance for smaller and fast growing companies.

Consequently, the European Venture Capital Association (EVCA) has, for some time, been leading the debate to seek ways to provide greater and easier access to European stock markets for smaller and fast growing companies.

There has also been considerable discussion and comment in every European country and at the pan-European level about the current equity financing arrangements for smaller and fast growing companies in Europe.

All of the reports conclude that the present equity financing provisions are inadequate, and that it is essential that this situation is rectified. For example, a round table of leading representatives from the banking sector organised by the Commission of the European Communities recommended in their final report, (published on May 19, 1994), that:

'The Round Table feels that it would be in the interests of innovative SMEs with high growth potential to back the development of an active, easy-flowing stock market. Even if the firms potentially involved represent only a fairly small percentage of the SMEs, the Round Table believes that more and more SMEs have to be encouraged to sell their shares to the public.'

Similarly, a report by Graham Bannock & Partners for the European Commission's Strategic Programme for Innovation and Technology Transfer (published in August 1994) also concluded that a pan-European stock market for fast growing and smaller companies is necessary, and is now a practical