ETSC'S RESPONSE ON THE EUROPEAN COMMISSION'S PROPOSAL RELATING TO THE PROTECTION OF PEDESTRIANS AND OTHER VULNERABLE ROAD USERS IN THE EVENT OF A COLLISION WITH A MOTOR VEHICLE COM (2003) 67 final

SUMMARY

- The European Commission produced the long-awaited legislative proposal on safer car fronts for pedestrians and other vulnerable road users on 19 February 2003.
- While the car industry has been consulted extensively at every stage on the technical details, safety and consumer bodies have been officially refused access to the text of the draft and have been excluded from the consultation process.
- The main rationale for requiring legislation was the certain eventual goal of mandating the level of protection offered by the four EEVC pedestrian test requirements.
- However, this new legislative proposal includes all the weaknesses and uncertainties of the industry's voluntary agreement and does not establish with certainty the EEVC tests as the long-term goal.
- The uncertainty of the long-term goal is claimed to be necessary to allow for any technical progress. However, the EEVC procedures already make provision for the testing of new technologies such as "pop-up bonnets". If necessary, further developments can be taken into account within the usual arrangements for adaptation to technical progress, in the normal legislative process.
- ETSC urges the Council of Ministers and the European Parliament to improve the European Commission's weak legislative proposal by including mandatory EEVC requirements, for new car designs, as the unequivocal and certain goal of this Directive.

BACKGROUND:

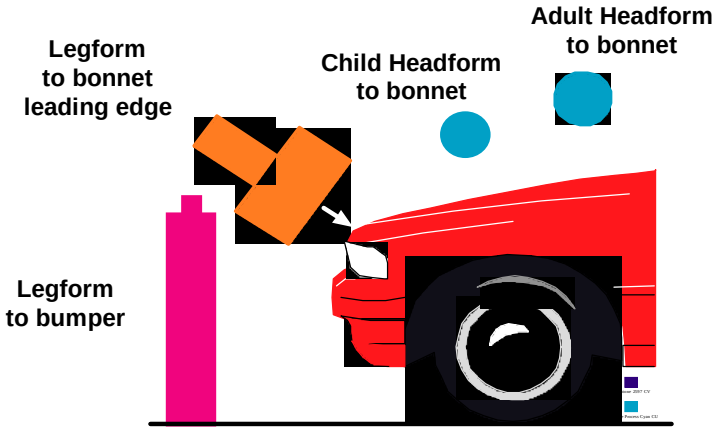
Each year, around 8,500 pedestrians and cyclists die on EU roads; most are hit by the fronts of cars in urban and residential areas and the majority of these are children and elderly road users.

Devising four interdependent car crash tests leading to better protection for vulnerable road users has been the focus of a 22 year EU-supported research and

development programme, involving national transport research laboratories, government departments and industry, brought together by the European Enhanced Vehicle-safety Committee (EEVC). These tests were validated in 1993 and have been used since 1997 by the European New Car Assessment Programme (EuroNCAP)[1]. EuroNCAP provides information to consumers on the safety of new car models and receives substantial funding from the European Commission.

THE EEVC TESTS:

4 SCIENTIFIC TESTS



- Agreed after 22 years of EU-supported research and development
- Used in EuroNCAP consumer testing programme since 1997
- If implemented, could save up to 2000 lives annually at EU level

In July 2001, DG Enterprise negotiated a voluntary agreement on safer car fronts with the European car industry (ACEA). The content of this negotiated agreement has been heavily criticised by independent experts across Europe and safety and consumer organisations because it failed to implement the four tests developed in the 22-year EU programme and offered a much lower level of pedestrian protection.

In its June 2002 Resolution on the negotiated agreement, the European Parliament expressed doubts as to whether the "state of the art" EEVC pedestrian tests would ever be implemented by this agreement and requested a legislative proposal mandating the level of protection offered by the four EEVC tests requirements as the clear long-term goal[2].

SUMMARY OF THE MAIN REQUIREMENTS OF THE EUROPEAN COMMISSION PROPOSAL FOR A DIRECTIVE:

Having ignored the requests from consumer groups, safety organisations and from the European Parliament, the European Commission produced a weak proposal on pedestrian protection, on 19 February 2003. As far as the safety content is concerned, the legislative proposal is almost identical to the negotiated agreement, with the exception that, from the start, the EEVC tests are allowed as an alternative to otherwise mandatory, technically weaker tests.

[1] These four EEVC tests performed by EuroNCAP on current new cars show they all failed overall and most performed poorly. The results are available at: http://www.euroncap.com/results.htm.
[2] Recital C and Paragraph 14 of the European Parliament Resolution. PE 319.165 of 13 June 2002.

The content of the proposal for a Directive is set out in the following table:

Phase 1 tests:
First phase tests: Joint Research Centre (JRC) /ACEA 2 mandatory tests – legform to bumper and child headform to bonnet top **OR** 4 EEVC tests **OR** equivalent measures to EEVC (with EEVC and "other equivalent measures" subject to a feasibility study before 1st July 2004) to be met by:

- 1 October 2005 by all new types of vehicles
- 31 December 2012 by all new vehicles

Phase 2 tests:
Second phase tests (EEVC) - 4 tests - legform to bonnet leading edge, legform to bumper, child headform to bonnet, adult headform to bonnet **OR** "other measures which have at least equal protective effects" to be met by:

- 1 September 2010 by all new types of vehicles
- 1 September 2015 by all new vehicles

BUT EEVC and "other equivalent measures" subject to a feasibility study before 1st July 2004

ETSC VIEW OF THE SAFETY CONTENT OF THE EUROPEAN COMMISSION'S PROPOSAL

Despite the fact that the main rationale for legislation was a certain implementation of the level of protection offered by the four EEVC tests requirements, the EC Enterprise Commissioner has proposed a Directive, which takes on board all the weaknesses of the voluntary agreement and fails to ensure the implementation of the EEVC tests.

The legislative proposal fails to deliver the high level of protection required by article 95 (3) of the Treaty. The JRC/ACEA tests are defective, the EEVC tests are only an option in the first phase and the eventual content of the second phase is uncertain.

ETSC finds it even more astonishing that the EEVC tests, scientifically established over many years, should be subject to a feasibility study, whereas the much criticised recently assembled JRC/ACEA tests are not and are even mandatory.

Phase 1:

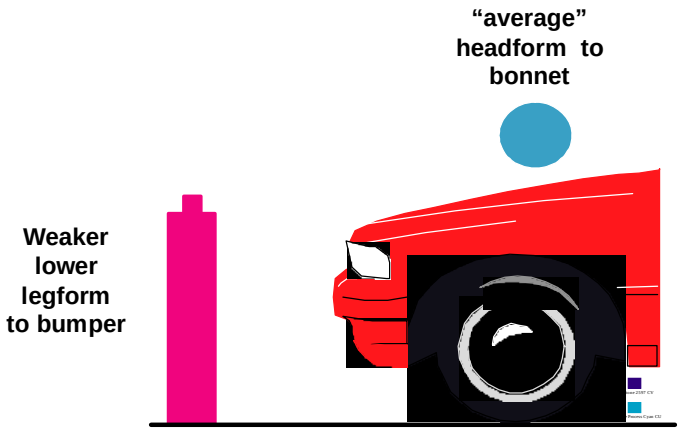
Scientists working in the pedestrian protection field believe that the JRC/ACEA tests are weak and non-scientific and could drive car design in a dangerous way for pedestrians. The failure to require the EEVC "upper leg form test" will compromise the protection of small children against fatal injuries and the protection of adults against hip, pelvis and leg injuries. Combining the child and adult head tests into one "average" mass head test underestimates the risks posed to both child and adult heads and fails to protect adequately. Consequently, excessive brain injury and skull fracture will result. Head injuries are by far the biggest cause of pedestrian fatalities. A new study by the UK Transport Research Laboratory (TRL)[3] concluded that a bonnet just meeting the ACEA head requirement may still be dangerous for young children.

Overall, the TRL study estimates that the JRC/ACEA tests, mandated for 2005 in this proposal, (old phase 1 tests of the voluntary agreement) offer up to 70% less protection against fatal injury than the EEVC tests.

[3] TRL Ltd, Costs and effectiveness of the Honda Civic's pedestrian protection, and the benefits of the EEVC and ACEA test proposals, April 2002

ACEA/JRC TESTS:

2 INDUSTRY TESTS



- Only two tests: failure to require an upper leg form test and a differentiated test for adult and child head.
- Reduced testable area of the car front
- Reduced tests robustness (reduced velocity, less stringent injury criteria)
- Offer up to 70% less protection against fatal injury than the 4 EEVC tests

Phase 2:

The second phase fails to implement the four EEVC tests with certainty. A feasibility study concerning mandatory take up of the Phase 2 tests (either EEVC or 'equivalent measures') is foreseen before 1 July 2004.

The car industry continues to raise feasibility, as an issue to oppose safety legislation, as they have done historically with many crash protection measures. For example, industry opposed the recent frontal and side impact occupant protection legislation on feasibility grounds and then rapidly proceeded to exceed the requirements in advance of the lead time of that legislation. Now the industry suggests the need for further research into the EEVC procedures, despite the 22 year research and development programme.

An indication of the robustness of the EEVC procedures is that the EU-supported EuroNCAP programme has used the EEVC tests since 1996. EuroNCAP has also recently decided to continue using these "state of the art" EEVC tests rather than adopt the JRC/ACEA tests, for its consumer testing programme.

The feasibility of meeting the EEVC requirements is also indicated by the Honda Civic, a car on EU roads today which meets around 80% of the EEVC requirements, without using new technology, at an additional manufacturing cost of around 10 euros per car (TRL study, April 2002).

- **"Other equivalent measures which have at least the same protective effects":** is another loophole of the legislative proposal, which could comprise any measure, not necessarily a pedestrian crash protection measure. There are currently no test methods delivering an equivalent level of protection to EEVC. However, the EEVC makes provision for new technology measures such as 'pop-up bonnets' which, when the bumper contacts the legs, lift-up at the back to provide a softer head impact.

ETSC urges the other EU Institutions to improve this weak legislative proposal by insisting on the inclusion of mandatory EEVC requirements for new car designs, as the unequivocal and certain goal of this Directive, with adaptation to technical progress on the basis of scientific study taking place thereafter in the usual way within the framework of the Committee for Adaptation to the Technical Progress (CATP).

ETSC, March 2003