Position Paper

CEA' s response to the EC consultation on the European Road Safety Action Programme 2011-2020

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The CEA welcomes the opportunity to take part in the preparation of the Road Safety Action programme 2001-2020, particularly the launched consultation and the workshops organised during September 2009.

A. Accident reduction via internalisation of external costs

B. Telematic-based insurance

C. The need for better cross border enforcement

D. The need for better driver training

- The insurance industry is strongly supporting the European Commission's initiative to reduce the number of accidents. While the focus of the last Road Safety Action Programme was on the reduction of road fatalities, the insurance industry would welcome, if the aim would be to reduce accidents in general.

- The CEA partly agrees with the Commission that increased responsibility of road users may result in the reduction of accidents. However increasing responsibility only by increasing costs for the road user will not result in a notable reduction in accidents.

- The reduction of accidents can be best achieved by creating more awareness, better education and training as well as better vehicle safety and better infrastructure. In contrast the increased burdening with costs of road users will not have a significant impact on their way of driving.

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A. Internalisation of external accident costs as a measure to reduce accidents

The CEA members have been and are addressing a variety of road safety topics from different angles. These include risk management, developing educational material and courses, running media campaigns, training and research[1].
The insurance industry already takes - as the Commission acknowledged - the road safety record of policyholders into account in their *bonus/malus – No claims discount systems*. The bonus/malus system is based on the principle of individual risk pricing. Even if external accident costs would be further internalised, it would according to our experience, not have any significant impact on drivers' behaviour and hence not lead to a reduction in road accidents.

I. Definition of accident costs

Throughout the discussion regarding the internalisation of external costs, which already started in the context of the road charging of heavy goods' vehicles, the CEA missed a clear definition of *accident costs*.
In preparation of the workshop in September 09 the European Commission defined accidents costs as *direct public expenditures, indirect costs for the society, loss of "human value" and property damage loss*. While this is a rather broad definition we would like to stress that those costs already are covered by Motor Third Party liability insurance except maybe "the loss of human value for the society as a whole"

1. Compensation of bodily injury

The Motor Insurance Directives oblige all motor insurers to cover the costs of personal injury and property damage. Therefore, Motor Third Party Liability (MTPL) coverage automatically comprises the compensation of medical treatment and rehabilitation. That expenditure can therefore not be classified as "indirect costs for the society" even if some parts of it are to be paid by social security bodies. In most of the Member states this payment is only preliminary, because social security bodies are entitled to take recourse against the MTPL insurer of the liable party. Therefore the assessment of accident costs, has to carefully analyse, whether social security bodies have a right of recourse In that case those "external" accident costs have to be considered as "internalised" already.

2. Compensation of material damage

Since damage to private property is already generally covered by MTPL insurance, the CEA asks for further explanation, why and which property damage should be considered to be an external cost.

3. Loss of human value and production loss

MTPL coverage does not comprise a "loss of human value" or a "production loss" only insofar, as this kind of costs do not meet the legal definition of a damage in terms of national tort law of the Member States. This is consistent because the purpose of MTPL insurance coverage is to protect and compensate the road accident victim on the one hand and to avoid a financial disaster for the person responsible for the accident on the other hand. MTPL insurance is hence not designed to refinance possible needs of national economy or losses of the society as a whole.
Furthermore the lack of a detailed definition for accident costs, especially in terms of "loss of human value and production loss" is a major obstacle for the CEA to establish a view or provide input to this discussion.

[1] http://www.cea.eu/uploads/DocumentsLibrary/documents/1237474647_road-safety-compendium.pdf

Additionally, the assessment of "the loss a human value" has to thoroughly balance the concrete economic circumstances of the road accident victim, e.g. whether it is employed or unemployed, a freelancer, a pensioner or a welfare recipient. An abstract approach would not only lead to inconsistency but would considerably violate the neutrality of treatment in terms of the commandment to treat different matters differently.
Finally, as far as road safety is concerned, there is no convincing evidence that burdening the road user with the costs to refinance the needs of the national economy will have a positive impact on road safety.

II. Need for further analysis

Once a clear definition of accident cost is found, an in depth analysis is necessary in order to compare the different national legal systems and assess, which of these costs are already internalised. This comparative analysis needs to assess all national tort and social laws.

III. Appropriate and Proportionate measure

If the conclusion will be that there is a need for further internalisation, the CEA would call for:

Careful analysis to determine whether and why internalisation of external costs in road traffic accidents should be prioritised in contrast to all other accidents (e.g. work accidents), or other kinds of personal injury caused negligently or even by criminal intent, which also potentially have external costs that could be internalised. The current approach limited to persons causing road accidents implies to violate the commandment of equal treatment.

At the same time, it needs to be carefully assessed, whether an insurance solution will have any educational impact on the behaviour of the road user. Additionally, it is necessary to carefully consider that an internalisation of the expenditure for "loss of human value" and "loss for the society as a whole" based on insurance coverage would demand an overhaul and redesign of the existing law and insurance systems of the Member States.

Therefore the CEA not only asks for a detailed definition of accident costs but also for a cost-benefits analysis and a careful consideration, whether there are no other alternatives meeting a balance between road safety intentions and the insurance industry' s interests more appropriately.

B. Telematic-based insurance suggested as a solution by the European Commission

MTPL insurance contains a number of tariff parameters already having an educational impact towards road safety on the customer, such as claims free bonus systems and mileage tariffs (the more mileage the higher the insurance premium). The CEA generally agrees with the assumption that telematic technology might provide appropriate tools to better and more precise risk assessment and pricing. However, as far as the educational power of telematic technologies towards more road safety is concerned the CEA remains sceptical, whether the product appeals to the risk groups.

I. Existing telematic- based insurance products

There are already a number of insurance products available on the markets, which use telematics technology to calculate premiums based on actual determinants of risks, such as *when* and *where* a vehicle was driven.

II. Benefits of the telematic-based insurance products

1. Risk assessment/pricing

Insurers assess the risk for a motor insurance policy according to the accident risk of a prospective customer. This is currently largely based on the information received by the potential customer and on statistics derived from historical information. In the risk assessment a variety of factors are taken into account. For example the insurer will assess whether the potential customer belongs to a certain risk group, which according to statistics causes a significant higher number of accidents or higher claims costs. One of these risk groups are young drivers. Young drivers have a poor road safety record, because they lack driving experience and are inclined to take unnecessary risks. The inexperience leads to accidents – in particular when driving at night, negotiating bends, driving at high speeds or driving on wet roads.

Telematics make it possible that the insurer receives information about when and where the vehicle is used. So the insurer could potentially use all these factors to assess the risk without having solely to rely on historical information. At the same time it could potentially allow insurers to tailor the insurance product even better for the customer.
However, it is important to underline that at the moment the majority of systems tested in Member States are still pilot projects, the results of which are still outstanding.

The probably most frequent and known system is the so called "Pay as you drive" (PAYD) system. This system registers the kilometres driven by the customer and price the premium according to the kilometres driven. This as such is not new, because there were also previously insurance products on the market, which were cheaper if the customer drove little. The difference was only that the insurer was dependent on the information provided by the customer and could not measure it by technology.

It is however too early to say, whether telematics will be able to change the insurance risk assessment entirely. Besides the benefits need to be weighed against the still existing uncertainties and, not least, the lack of customer demand.

2. Road safety

Telematics can have a positive effect on road safety, when being implemented for certain risk groups. Especially pilot projects for commercial drivers have shown a positive impact on their driving behavior. The same has been reported for young drivers. However these are the risk groups, where another person – namely the employer or the parent - decides about the implementation of telematics.

3. Uncertaintities of telematics based insurance products

While the CEA does not dispute the benefits of telematics based insurance products, it still sees a lot of uncertainties, which need to be assessed in detail, before the technology can be considered as a solution for any policy initiatives.

4. Customer demand

Customer demand for telematic insurance products remains relatively low. One of the reasons is that customers do not wish to be monitored at all times when driving. One of the first insurers, which had offered a telematic-based insurance product finally decided to take the insurance products off the market, because the customer demand was too low and the costs for the implementation of the technology too high.

5. Legal implications

New telematics services might also provide information about the vehicle movements immediately before the accident and help the establishment of liability after the accident. In fact, such kind of data has already been admitted as evidence in a court case in Italy. In that case the driver who had a car equipped with telematics could defend himself by disclosing the data collected by the telematics box. It will however not be possible to oblige the driver to disclose all the data, because it would be against the procedural principle, according to which a citizen is not obliged to incriminate him-/herself. So the data collected by the so called "black box" can only be used, if the driver/keeper of the vehicle previously agreed that the insurer is allowed to use the data collected. As a consequence it needs to be assured that any system is compliant with data protection law. In addition the ownership of the data needs to be clearly determined before any technology is installed.

While the first perception is that the establishment of liability could be easier, there are downsides at the same time, because the new technology can fail or the information collected can be incorrect due to the malfunctioning of the system. At the same time it is also not clear to which extent the technology can be manipulated.

6. Costs

While the prices of "black boxes" have decreased due to more competition on the market, they are still relatively expensive so that insurers still have to assess, whether there is a return on investment in the long run. It is not only the cost of the technology itself, but also the maintenance and the repair costs, which could arise during the implementation. If the data collected prior to an accident should be used for claims handling purposes, the cost of the data recovery from the"black box" also needs to be taken into account.

C. The need for better cross border enforcement

The CEA fully supports the EC's commitment to better cross border enforcement. With more and more people travelling privately or for work in the EU, it is important that cross border enforcement is effectively working and not solely based on bilateral agreements between Member States. Especially transit countries are exposed to the negative road safety record of other nationals without having a mean to have an impact on it, because their fines/penalties cannot be enforced the country of residence.

D. The need for better driver training

The CEA would like to reinforce its messages on driver training[2], which it has submitted to the EC consultation. The CEA believes that there is a need for a minimum harmonisation of driving training standards, which should ideally not be based on the best and most efficient examples in the EU.

Conclusions

- The CEA calls for road safety actions, which aim at creating awareness, educating road users, and improving vehicle safety and infrastructure.

- The CEA believes that it is of utmost importance to define *accident costs* in order to conduct an in depth analysis on the need for and the appropriateness of further internalisation of external accident costs.

- Given the above-mentioned uncertainties the CEA therefore advises the European institution to monitor the further developments of telematic insurance products carefully and refrain from suggesting its implementation in any area, before sound information and statistics are available on the European market, which evidences its effectiveness in all areas discussed.

- The CEA asks the EC to pursue its aim to establish cross border enforcement in case of road traffic offences.

- The CEA believes that it is crucial to improve driver training standards

The CEA looks forward to continue cooperating with the EU institutions in order to identify means and implement actions that will improve the road safety in the EU.

[2] http://www.cea.eu/uploads/DocumentsLibrary/documents/1246955086_cea-contribution-to-ec-consultation-driver-training.pdf