

From Europe to the United States

by Simon Milward

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The following article was developed from an interview previously published in Europe, and from an article previously published in the MRF Reports. The goal to tell you plainly what the current legislative items are in Europe, with implications for motorcyclists in the US.

The big happening for European riders' rights was during the last year was the amalgamation of FEM and EMA to become FEMA. I know it is the name for the US Federal Emergency whatever, but it's a small world, and besides, it feels like we are sometimes dealing with federal emergencies! We are now 22 national organisations of 17 countries and have embarked on a programme of developing the movement to deal with the challenges that lie ahead. Although there is still no riders' rights organisation in Spain, riders of most EU (European Union) applicant countries of Central and Eastern Europe are getting organised (e.g. Poland, Hungary, Slovenia) and there is a new organisation in Croatia.

The 1998 Fun Bike Ride with Members of the European Parliament (MEPs) went well, sponsored by Harley Davidson, Hein Gericke and Shoei, with several of the 30 staff and Members exclaiming that it was the best Parliamentary session so far. Relations with the transport section of the European Commission (the EU bureaucracy) are improving further, with funding approved this year for planning the 1999 Young Rider of the Year Event, which FEMA is helping to organise with the FIM and producers' association ACEM.

We're busy lobbying Members of the European Parliament in preparation for the serious talks in the Autumn.

Other stuff we have done on an EU basis (this report does not cover the multitude of national activities) includes daytime headlights, where we prevented a draft resolution by the European Parliament calling for compulsory use for cars and bikes; defeating the ban on motorcycle trailers in Denmark (this was a matter of principle, Spain we hope will follow soon); promotion of crash

barrier protectors to save arms/legs/head amputation; and promotion of a non-slip road repair compound.

Lastly the 1998 Euro Demo will take place in Bonn, Germany at the end of August when we expect 15-20,000 bikers on the streets. The political message of that alone will be worth it, but we are concentrating on the End of Life Vehicles Directive and some safety and discrimination matters. It's comforting to know that all politicians behave the same before elections.

Global harmonisation of vehicle standards

On the 25th June 1998 the US Government signed up to global vehicle standards along with other countries in the United Nations including Japan and the European Union (EU). The motorcycle industry will now work flat out to complete global harmonisation of bike standards. For them, it streamlines the production process thereby increasing profitability, whilst we are supposed to get less severe price increases and a bigger choice of models.

It also means the battle against leg protectors, airbags, anti-tampering measures and strict noise limits goes global. The bike industry hopes the US Government will stand firm against some of these more idiotic European ideas.

But on the other hand Ricardo Martinez, head of NHTSA, said, "The opportunity here is to improve safety by finding the best practices (among nations) and speeding them to the American public. It's a win-win situation, the manufacturers get one standard instead of two or more, but we get the better standard for the American public." That sounds worrying to me.

With the battleground decisively moving in the international direction, the second Interna-

tional Riders' Rights Conference hosted by the FIM next year in Europe becomes even more significant.

End of Life Vehicles

This directive was written for cars, but the bureaucrats included bikes because their brains were unable to comprehend the intrinsic difference between cars and bikes. Always the best start for legislation must be from the base of a demonstrated need. Motorcycle recycling is, in our opinion, inherent in motorcycle use; a recycling directive in this form for bikes is not needed, and could be counter-productive. The Commission chiefs even ignored the view of their own study group which recommended exclusion of motorcycles. If we accept this one, our love of dismantling and rebuilding from a range of parts could be dependent on the issue of a certificate of destruction, and our breakers [cycle salvage businesses] could be wrapped in unnecessary red tape. That is why FEMA is arguing for four things:

- exclusion from directive apart from basic environmental requirements for breakers (details on request)
- a 100% rebuild clause (you can build your own bike from 100% re-used parts)
- a "collectors clause" whereby those who store old vehicles will not incur a cost
- and a new study including a full environmental appraisal of motorcycles (taking into consideration not only the fuel consumption and emissions, but also raw materials and energy used in manufacturer, transportation to the market, use of parking space, congestion causation, and all the other things that are conveniently ignored.)

This is the current hot one for us.

Vision zero

This is the new approach to road safety aiming for zero deaths and serious injuries from road accidents. The Swedish originators have already admitted that motorcycles are not compatible with the theory and want bikes banned.

We believe that removing every element of risk from life is a dangerous threat to the enjoyment of every human being and perverse to basic human instincts. This idea is totally unrealistic

and will lead to an abnormal society.

This approach is already being accepted in Holland and Norway, with the Norwegian bikers, represented by NMCU, taking the same approach as the Swedes in trying to make the system work for the good of bikers. Don't tell NHTSA.

Unfortunately the theory was presented at the Enhanced Safety of Vehicles (ESV) Conference in Canada in June 1998. The Swedish scientist responsible for the theory (Claes Tingvall) has just started work in Australia, as well.

Intelligent Transport Systems

This is where electronic devices installed on vehicles and beside the road will be used for fee collection, cruise control, collision avoidance and other less important items such as travel information. Up to now, in Europe we have taken the same approach as has the MRF, that is, securing wording in current texts that the needs of motorcyclists are considered in this debate.

The current dilemma may be solved only when more technical information becomes available. If we argue for full inclusion in telematics, then we can expect to be included in fee collection systems. This would leave us with a battle to ensure we get fair treatment when fees are decided. If we argue for exclusion, we could end up with road bans.

So we have asked the European Parliament and Commission to ensure that where cars are equipped with 'detection' systems (anti-collision), these systems must recognise the presence of small vehicles. We don't want to be rammed by cars driven by people who are not paying attention because electronics are making all the decisions. We also demand that privacy of individuals are protected and that any systems installed for fee collection are anonymous.

(You know where ITS came from? At the end of the 'cold war', the American military needed somewhere to apply their technology.)

Anyway, road transport is undergoing some fundamental changes. It is the responsibility of all riders to make efforts to ensure that motorcycling remains enjoyable for future generations by becoming active in their own national riders' rights organisation.

This one definitely has international implications and we are staying in close touch with the AMA and the MRF.

Road Bans

We're talking about roads which are closed to motorcyclists but open to car drivers. The reasons given for the ban are too many accidents and too much noise. But instead of enforcing the law, the local authorities prefer to simply ban bikes! MAG Austria, MAG Holland and all our German member organisations have been unable to find an effective way of dealing with these bans. Speaking to local residents has helped in some cases, but asking the bikers to ride more sensibly and quietly has met with little success. In 1990 there were about 70 bans in one country. We now know of about 200 bans in three countries.

We've set up a Working Group amongst the affected countries, whose aim is to identify the most effective solutions to this problem and exchange experience. I heard that Illinois has the same problem now...

Legal Protection of Designs

Though final votes have yet to be taken, it looks like we've finally come out OK on this one, that is, we've achieved equality of treatment with car drivers. But for a while there it looked as though car drivers would be able to buy half-price replacement wings, lights, windscreens (or other common repair parts) from a non-OEM supplier who copied the original design.

However some common motorcycle repair parts could not have been copied for a full 25 years, so we would have only been able to buy the full-price OEM part. Cheaper pattern parts (e.g.. fairings) simply wouldn't have been available. Imagine what an increase in monopoly pricing would mean to insurance prices, repair bills, and the profitability of stealing bikes.

The discrimination was not intentional, the problem was with the definition of a 'repair part'. The situation would have aggravated the current situation: we know of cases where a European OEM producer has threatened court action against an aftermarket producer.

The new agreement is that there will be no

European harmonisation just yet, but that any change in national (read State) law must be in the direction of market liberalisation. That's OK for us.

I get the feeling that the general US approach appears to be more liberal. There doesn't seem to be anything yet to worry about globally, but if the globalisation trend continues, at some stage design law will have to come under scrutiny.

Clothing Standards

We were working within a coalition of bike and clothing producers, the FIM and its professional lobbying group EPPA in an effort to stop clothing standards. The existence of standards could easily lead to compulsion.

A series of mistakes by some members of the coalition, not us nor FIM itself, resulted in our work being run out of time, but we were offered a compromise by the bureaucrats: that is, to change the scope of the standards to cover professional use only (emergency services, despatch riders, police perhaps). This was accepted by FEMA members provided that a clear definition of professional use was included.

It is not nice being held hostage to a bunch of safetycrats who have nothing better to do, and commercial interests of testing houses who want as much business as possible. Coupled with European Commission ambiguity which tells you what you want to hear depending on who you are, and a lack of motivation to bring local rider pressure to bear on the British Standards Institute, we had no choice. It was either for professional or all road riders.

Compromises stink and we hope insurance companies won't try to apply the standards to road riders. In the meantime clothing producers are expected to produce a voluntary quality label for road riders' clothing. It will be a barrier to future attempts to expand the scope to cover road riders, and help to deal with rogue producers who mislead consumers.

We are fighting the likely scenario that will result from CE marking on bike clothing. If British safety experts have their way, you'd have to wear CE marked clothing for all journeys. The largest motorcycle insurer in Germany has argued

for compulsion, and although that is only one out of all countries, we think it is a risk too big to take.

How many European administrations would like to pass this law to be seen to be doing something “to protect this nation’s vulnerable road users”? Many. We’ve seen it before, for example in the UK over leg protectors. You can say, “but they wouldn’t do that.” They might not, but they might. In FEMA, we don’t want to find out. We would rather spend some efforts now in stopping it, rather than be faced with the task later on of trying to repeal such a law. It could be like a yoke around our necks.

In a worst case scenario, this could affect US bikers. You can imagine a NHTSA official speaking with a pro-compulsion ‘expert’ from the British Standards Institution at some international conference or other (which are on the increase). Enough said.

Direct (Parallel) Imports

I’m not sure how US bikers view this subject.

This is about our freedom as a consumer and what you pay for your motorcycle. Over \$2,000 can be saved buying parallel, that is, a machine not imported through the official channels. Some manufacturers say they need the profit gained through restricted distribution channels to fund advertising, race teams, dealership infrastructure and company cars. Many riders think that seeing as they live in the world, why should not they have access to the same model of motorcycle at its cheapest price on the world market? Already there are world standard motorcycles, what is good for one is good for the other. Factories themselves sell new bikes to the parallel trade, whilst their official distribution prohibit us, through the courts, from buying them. This is not fair. In some cases the parallel trade is doing us good. The official distributors offer discounts, free insurance, and other benefits to attract buyers to their franchised dealers.

We don’t want to live in a “fortress Europe” banning free trade with the rest of the world. We want a free Europe based on citizens’ real interests and choice in the marketplace. We’d like to think you would take the same position with the US government.

Roadworthiness Testing Directive

We are fighting for maintenance of national (State) sovereignty in the area of annual/bi-annual inspections for motorcycles.

When we searched for the safety evidence supporting the inclusion of motorcycles in the EU roadworthiness testing, there wasn’t any! Well, the French police did admit to ONE accident occurring due to a technical fault - a punctured tyre! But you know what it’s like: bureaucrats won’t let the mere fact of lack of evidence stop them from trying to harmonise this subject, even though only 7/15 EU countries have it. So what would we end up with? In the best case, a gratuitous piece of legislation simply costing us money, time and hassle. In the worst case the restrictive and bureaucratic German TUeV system everywhere.

This will not be a global concern for a long time yet, if ever.

Transport Pricing (Tax)

We have a big problem with the EU Paper called “Fair & Efficient Pricing in Transport.” Using French figures, the Commission said that the “external costs” of motorcycling were higher than for cars, meaning that if all road users had to pay for their use of the road, riders would pay more than drivers. For every urban km travelled, two wheelers cause external costs of 73 centimes (20 US cents), whilst a petrol car causes 23 centimes (6 US cents) costs. And they called the paper “Fair”!

Needless to say, their method of calculating these figures, which considered tax revenue, road expenditure, noise, pollution, greenhouse effect, accidents and congestion was completely wrong. For example, riders are attributed costs in car-bike accidents even though most are caused by car drivers. Under this system, the victim has to pay!

This is a European problem for now, and maybe also in other heavily populated areas of the world, in the Far East for example. But who knows the future?

Theft of Motorcycles

This problem is increasing in a number of

countries and has been fought mostly on a national basis; for example, FFMC France established a consumer oriented system of approval of aftermarket locks called StopVol and award manufacturers for good anti-theft practise, whilst MAG UK offers rewards for information leading to the conviction of bike thieves.

Meanwhile FEMA has asked for some anti-theft amendments to the EU directive which harmonises registration documents, and has established a Theft Working Group of member organisations whose first job is to exchange best practise.

Every motorcyclist can help on this one. Bike thieves are the scum of the earth and must be exterminated. We advise European bikers not to buy parts they suspect may be stolen, and to lock their bike to something solid and alarm it.

Leg Protectors / Air Bags

A certain British scientist built his career and reputation on developing motorcycle leg protectors. He worked in a research organisation (TRL) which depended on government funding, indeed TRL has spent about 10 million on leg protector and related research to date. The British Government was so pleased with his work that in 1988 it proposed compulsory leg protectors for all new motorcycles. The BMF and MAG protested with a 100,000 signature petition and a 25,000 Riders Rights Day rally in Hyde Park London, calling for the dismissal of the Transport Minister. He was subsequently removed and the government dropped its compulsion plans.

Meanwhile the motorcycle industry did some research of its own and found leg protectors to actually increase injuries [see *MRF Reports*, Sept/Oct 98].

The safetycrats then spent a few more million pounds and came up with the idea of airbags designed to decrease the injuries caused by leg protectors. That is where we are now, riding on a merry-go-round of safety gimmicks.

Thwarted at home, the British are trying to get Euro standards adopted for these dubious safety devices. It's a classic example of where theories which work well in the laboratory are not put to practical tests which casts doubt on their

applicability.

The British do not want to waste their investment and will continue to push for new proposals for compulsory secondary safety measures.

The threat to our continued enjoyment of motorcycles and responsibility for our actions will continue as legislators find new ways of protecting us from ourselves. The road to safe motorcycling is a hazardous one. Do you know what kind of motorcycle is safe to crash on? One with four wheels and a protective outer shell.

Thankfully, after the motorcycle industry and rider influence, a new study by the Organisation for Economic Co-operation and Development (OECD, of which the US is a member) has been changed from a study into secondary rider protection to one which looks at causes of all rider accidents (a kind of European Hurt Report).

But that won't stop the British. If the Brits succeed in pushing for Euro standards for LPs/ABs, they will definitely be on the international agenda through the United Nations. Oh yes.