

**Detailed ANEC comments on the European Commission's second Note for the members of the TCMV, dated 02 March 2011 (ref. D5/PB D (2011) – 252967)**

ANEC has already commented on many of the statements repeated from the first Note through its letter of 15<sup>th</sup> November 2010. However, we wish to comment in more detail here, especially on the "Brief Analysis of the New Draft Regulation and Claimed Benefits":

**Commission Note:** *"The main goal of the draft new regulation has naturally been that to improve the overall level of safety for children transported in cars and the aim was to address issues which could lead to unintended misuse and incorrect usage in traffic, causing a higher risk of severe injury or death of the child."*

**ANEC comments:**

Although the reduction in misuse (to which the new consumer-friendly, stature-based classification contributes) is important, it is very difficult to prioritise goals. We are convinced the total package in this new approach is very beneficial for consumers and other stakeholders. Hence, the introduction of a side-impact procedure, and the mandatory rearward-facing transport of children up to 15 months, should be mentioned as goals of equal importance.

**Commission Note:** *"It concerns only a very limited group of ISOfix CRS for children up to 6 years of age."*

**ANEC comments:**

Although these ISOfix variants presently represent a limited part of the market, there is a huge potential as the new regulation makes this type of seat more universal with the consequence that cars will be equipped with ISOfix anchorages as a standard provision.

Moreover, these CRS address a major part of population to be covered (children up to approximately 5 years of age), and once the requirements for integral harness ISOfix CRS have been established, the concept will be extended to other categories of CRS (non-integral with ISOfix connections and belted systems). The old-style R44 CRS will disappear.

**Commission Note:** *"Frontal impact in the new regulation is heavily based on the old regulation."*

**ANEC comments:**

We prefer to use the term 'existing,' rather than 'old' regulation, as R44 is still applied. It should be mentioned that, in the draft new Regulation some elements have been copied from the existing one. This relates to the accident-type that needs to be mimicked as well as the test equipment available at the technical services.

Having said that, one should be aware that the frontal impact test set-up has undergone major improvement. The characteristics of the actual test bench have been brought into line with seat characteristics in the modern car fleet. Seat cushion foam and the geometry of anchorage points for belts and ISOfix – major parameters in frontal impact - have been modified in line with recommendations of the NPACS project (to which EC has provided substantial funding).

**Commission Note:** *"Rear impact in new regulation is based on old regulation."*

**ANEC comments:**

It is correct that the rear impact in new regulation is based on the old regulation. But it should be added that this was discussed in the informal group with the conclusion that current provisions are adequate. There is no accident evidence to strengthen or weaken the current procedures.

**Commission Note:** *"General safety and performance requirements are all based on the old regulation."*

**ANEC comments:**

In addition to promoting ISOfix (Universal-Integral is a real safety advance), the new regulation provides the following improvements:

- I-size concept & stature based classification (simplified classification that will facilitate the consumer's choice of appropriate seat based on the stature rather than mass of a child)
- The mandatory rear-facing transport of children up to 15 months
- Side impact protection
- Reducing misuse
- Use of a new generation of more biofidelic and better equipped dummies

The Commission statement that the new regulation is only the existing one with a few changes and updates does no justice to these major safety improvements.

**Commission Note:** *“Certain features which are prohibited in the old regulation will now be allowed”*

**ANEC comments:**

There is only one feature - not “certain features” - the shoulder strap positioner. It is used in other parts of the world (USA) and has proven to be effective.

**Commission Note:** *“Facilitation for a limited category of CRS products, currently on the market as “semi-universal” with support leg or foot prop, which under the new regulation can be type-approved as fully “universal” systems. Currently CRS manufacturers must undergo additional steps to ensure compatibility with all relevant vehicle types (cumbersome for the CRS industry).”*

**ANEC comments:**

The Note foresees the future market situation as only a simple extrapolation of the present. We believe the aim is not to approve existing products according to the new regulation, but to open the market for new, innovative products. We are confident the market will develop accordingly.

**Commission Note:** *“The draft new regulation is heavily based on the old regulation, with a few changes and updates. The CRS manufacturers will have more freedom to benefit from, but it does not address certain specific challenges for the vehicle industry and end-users.”*

**ANEC comments:**

Furthermore, several references - implicitly and explicitly - are made to the CRS industry “...demanding considerable changes and adaptations on the side of the vehicle manufacturers”. Also: “...the burden of proof concerning child safety is simply shifted from CRS manufacturer to the car industry”.

Clearly, it takes two to tango. ANEC believes car and CRS manufacturers have a shared interest to make the safe transport of children both possible and easy. Both the CRS and car industries acknowledge place increasing emphasis on the benefits of compatibility between car and CRS.

This ‘plug and socket’ concept has the attention of the working group, and the Commission is probably aware of the close cooperation between CLEPA and OICA to find a solution. Modifications on the car side (R14 and R16) to facilitate CRS accommodation in a more universal way are being prepared for discussion in GRSP. A solution is close. Manufacturers can already choose whether to design cars to be i-size ready. The winner is the consumer who no longer has to check vehicle lists but can put an i-size CRS in an i-size ready seating position.

**Commission Note:** *“Rather than creating a fully new regulation, we feel that these updates should have been incorporated in the old regulation, which would have led to a smooth transition in terms of implementation and transposition in EU law. Instead, with the proposed new regulation, there will be administrative burden for the EU and its Member States. These views were not shared by all in the Working Group.”*

**ANEC comments:**

We certainly do not share the Commission view that these updates would have been better incorporated in the existing regulation: UN ECE had good reasons to start afresh instead of adding to the patchwork that R44 has become over the years, irrespective of the technical content. The ToR and underlying justification for this approach have been agreed in GRSP and adopted in WP29. It is the first step of three that will eventually see all types of CRS on the market covered.

**Commission Note:** *“Therefore, the old and new regulation will co-exist for identical products with different and conflicting requirements, causing additional confusion and implementation challenges, complicating matters even more.”*

**ANEC comments:**

We assume, following the recent meeting of the informal group attended by the Commission representative, many of the Commission’s concerns on transitional provisions have been cast aside. More specifically, those concerns related to how the future car fleet should look in order to accommodate i-size CRS. The issues of Car/CRS compatibility, as well as the marketing of CRS and cars meeting the new requirements, are close to finalisation.

Any change to a regulation has to address transitional provisions and it is clear that such provisions must be communicated carefully. We recognise the new Regulation represents a totally new approach and not window dressing. However the scenarios described in the Note are inconveniences that will last only until phase 3 is complete and old style CRS have disappeared from the market. More importantly, there will be no increased risk to safety as a consequence.

Although it will be possible to buy an old style R44 CRS for the forward-facing transport of a child at 9 months of age in the transitional period, its will not offer a lower safety level than the one presently accepted.

And although it will be possible to (unintentionally) install the new child restraint systems in older vehicles not meeting the criteria - as the CRS will fit in any car with ISOfix, suitable or not - there should be no problem as long as the strength requirements for the support leg are fulfilled. Again, the present situation is no better as semi-universal CRS may fit (and so be used) in cars not on the ‘vehicle

list'. Our expectation is that cars able to accommodate semi-universal support-leg equipped CRS will be compatible with new requirements for the support leg.

ANEC is convinced the new concept must be introduced if levels of safety are to be improved and not simply maintained. Moreover, it would be wrong to allow issues of a transitional nature to obstruct the real improvements that both CRS and car manufacturers are now able to offer consumers and their children.

**Commission Note:** *"As a conclusion, in order to qualify as a truly new regulation with considerable improvements for EU end-users, the level of safety should have been increased considerably, with a clear distinction between the old and new products".*

**ANEC comments:**

It is remarkable how this conclusion can be drawn when it is clear that the new regulation will offer a considerable increase in the level of safety.

**Commission Note:** *"One of the true potential safety improvements which should be noted is that of the requirement that rearward facing child restraints shall be used until at least the age of 15 months. However, for illustration, this age normally reaches up to 4 years in Sweden. Furthermore, the 15 month requirement is not even a design requirement for child seat makers; it is only a printed statement on yet another label."*

**ANEC comments:**

Even if it were only a matter of relabeling, it would still be a step forward as, at the moment, it is permitted to transport children forward-facing from 9kg (which can be 6 months of age). Consumer organisations wanted mandatory rearward-facing transport up to 18 months of age, but this appeared not feasible as it would have demanded considerable changes and adaptations on the part of car manufacturers to meet the space requirements for these bigger CRS.

Nevertheless, we oppose the suggestion that the 15 months requirement is a re-labelling operation.

**Commission Note:** *"The most popular baby seats on the market today, as described above, are already suitable for babies of up to 15 months of age; hence, there will be no overall improvement to speak of."*

**ANEC comments:**

This is incorrect. Bigger children will have to be accommodated under the new regulation. The industry will need to develop new seat shells to accommodate children up to 15 months of age and their associated stature (up to 105cm).

***Commission Note:** "A second highly touted improvement is that of the introduction of side-impact protection in the new draft regulation. This would certainly be the case if it were not so that the requirements have in fact been watered down to the extent that a wafer thin side wing is expected to easily pass the proposed requirements."*

**ANEC comments:**

The introduction of a side impact test procedure was one of the more challenging issues, remembering the different views held by experts. It was an achievement to reach a workable solution for the legislation. The current proposal defines new performance requirements that will need to be met by all CRS manufacturers, as opposed to none at the moment.

We think the side impact test procedure should set performance requirements, not design requirements, and would like to know on what basis this expectation is made, and why it would be an unacceptable solution. The aim is to provide an acceptable minimal level of protection, and if existing CRS pass this test, we as consumer groups, would be pleased to take the credit for steering the market in this direction already.

Furthermore, we do not understand why the wording 'watering down' is used, as there is no side impact test procedure defined in the current legislation.

***Commission Note:** "A number of very marketable updates, changes and improvements to child restraint systems have been incorporated in the draft new regulation, whereas true safety improvements have been cast aside."*

**ANEC comments:**

No evidence whatsoever is provided in support of this claim. Moreover, the claim questions the expertise and competence of the UN ECE groups (in which the Commission and Member States have participated from the outset) and, indeed, can be seen a 'vote of no confidence'.

Given the significant improvements offered by the new regulation, ANEC urges the Commission to retract its claim.

**Commission Note:** *“However, it also enables not-so-good designs to pass the requirements more easily in the future”*

**ANEC comments:**

We are keen to see the evidence supporting this claim.

**Commission Note:** *“The baby seat shown in these videos (<http://www.youtube.com/watch?v=rayxFm3vYy8>, <http://www.youtube.com/watch?v=hInyljw7y5E> as well as the alternative view as shown in [http://www.youtube.com/watch?v=RaF4\\_dGA4qQ](http://www.youtube.com/watch?v=RaF4_dGA4qQ)) will pass the future proposed baby injury criteria comfortably at about half of the maximum allowable levels. However, if a baby occupant is riding in a modern car which is involved in such a very common frontal crash with a higher severity, this baby will not stand a chance to survive.”*

**ANEC comments:**

We object to the use of test results from ADAC testing showing dramatic failures with (cheap) child restraint systems. This kind of sensationalism should not be the basis for setting a minimum level of safety, only field evidence.

The ADAC testing is telling if CRS can withstand more severe crashes than the minimal legal requirements – a Euro NCAP type approach. It is always possible to make seats safer by defining more severe tests and requirements. Legislators have to balance between an acceptable level of protection against reasonably-priced CRS, accessible for a large population.

To make a comparison with full scale frontal crash tests, a car failing the Euro NCAP test may pass the R94 injury criteria comfortably.

**Commission Note:** *“Improve the frontal crash pulse, whilst maintaining the appropriate speed of 50 km/h (according to scientific research concerning child exposure during on-road transport) to reflect modern vehicles under full overlap crash conditions (common crashes such as head on collision, rear impact, T-bone impact, wide object, etc.)”*

**ANEC comments:**

The proposal to improve the frontal crash pulse, while maintaining the appropriate speed of 50 km/h to reflect modern vehicles under full overlap crash conditions, maybe an ‘easy sell’ politically, but is not straightforward technically. It was discussed in the expert group, but no field evidence was brought to the table to justify changing the pulse for the moment.

However, should the Commission pursue this approach, the weakest link principle must be maintained, and related Regulations should be modified accordingly. It does not make sense e.g. to design CRS more capable of dealing with higher g-values than the backrest of the rear bench (so risking CRS and child to be overwhelmed by luggage in an accident).