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**Sent:** Monday, April 13, 2015 7:40 AM  
**To:** JEAN Philippe (GROW)  
**Cc:** BONVISSUTO Barbara (GROW); GIELEN Guido (GROW); BROERTJES Peter (GROW); Joeri de Ridder; bert.witkamp2  
**Subject:** Amendments and Corrections to L-category type-approval

Dear Mr Jean,

In January, AVERE has submitted to the European Commission a number of comments on the different legislative texts relating to the type-approval.

One of our comments concerned Annex X, Appendix 4 of the REPPR. We have argued that the current scope and wording of this appendix is such that vehicles in sub-category L1e-A equipped with an auxiliary motor but without pedal assistance, the so-called "open-throttle" electric bicycles, cannot technically comply. The requirements which we pointed out pertain to pedal assistance, a characteristic which may not be present in an open throttle bicycle.

We are very surprised to read the EC's reply to our comment in the latest list of errors and comments: *"when an L1e-A powered cycle is equipped with a throttle it has to comply with this criterion, else the vehicle has to be classified as an L1e-B moped complying with point 1.1.2 of Annex XIX to the RVFSR. It means also that L1e-A vehicles, even if these are equipped with a throttle have to comply with the requirements in points 3.1., 3.3, 3.4 and 3.5. and should be designed such that these tests can be performed and shall therefore not be irrelevant for that powered cycle type."*

This means that, according to the Commission, for powered cycles with an open throttle there are two options. One, they are also equipped with pedal assistance in which case they may be type-approved according to the requirements above. Two, they have no pedal assistance, in which case they are classified as mopeds L1e-B and have to comply with all type-approval requirements for this category.

The latter case means that type-approval prevents such vehicles from coming on the market since it is impossible for them to technically comply with the moped requirements. In the unlikely situation that a manufacturer of such vehicles would manage to obtain type-approval for a moped, this type-approval will by no means assure the putting on the market of a safe vehicle. Open throttle electric bicycles without pedal assistance have very similar, if not identical parts and components to pedal assisted L1e-A or L1e-B vehicles. These are subject to specific tests of parts such as frame, forks, etc., tests which will not apply to identical or similar frames of open throttle bicycles classified as L1e-B mopeds.

We are all the more surprised about the EC's reply since the Commission has confirmed in an email of 5 July 2013 to ETRA that open throttle bicycles will be considered to be categorised in L1e-A. Below we send you a copy of this correspondence. As the Secretary General of ETRA, Annick Roetync who is currently AVERE LEV Policy Manager, explicitly asked for this confirmation, because the introduction of factor 4 for pedal assisted bicycles caused exactly the problem brought to your attention in this mail for open throttle bicycles. This was only one of several objections ETRA had against the introduction of factor 'four'. The Commission and ETRA reached an agreement which included 2 elements to compensate for the inclusion of factor 'four' : categorisation of open throttle bicycles as L1e-A and the addition of a preamble to the Regulation guaranteeing further research into factor 'four'.

In view of all the above, we would very much appreciate your reply to our following questions. What is the reason for the Commission changing position on the subject of "open throttle bicycles"? Such vehicles do have a real market potential for instance with elderly people, physically impaired people, delivery services, etc. What is the reason for establishing a type-approval that prevents these vehicles from coming on the market by imposing type-approval rules which are impossible to achieve, whilst at the same time not guaranteeing a safe vehicle? Should the safety of the vehicle not be the one and only factor determining type-approval requirements?

In the meantime, **Avere urges the Commission to introduce the amendments to Annex X, Appendix 4 of the REPPR as proposed in order to allow type-approval of "open throttle" bicycles in category L1e-A. Alternatively, should there be a proposal not to apply factor 4 and switch off distance requirements to the L1e-A category in general, then of course AVERE supports such a proposal.**

As mentioned, the agreement with ETRA included 2 elements. As for the second element, the preamble, we are also very surprised to read the Commission's "ok" to CONEBI's proposal to delete this preamble following a report from the University of Hannover-Harburg. Apart from the fact that we have not had sufficient time yet to study this report and to consult in depth with other academic sources on this issue, we do not agree that this report can qualify as the necessary "further scientific research and assessment". Also, the preamble states: "(...) scientific data and statistics on vehicles placed on the market". From our first reading of this report we conclude that there is no mention of any statistics on vehicles placed on the market. It is far too early to have any relevant statistics on such vehicles since the requirement of factor 4 has only taken effect since beginning last year and the number of vehicles concerned on the market is still too limited to be relevant.

In the meantime, we have submitted the Hannover-Harburg report to competent departments at the VUB and at KUL Campus Gent. In their preliminary analysis, both universities, independently from each other, conclude that the Hannover-Harburg report does not provide sufficient solid arguments to conclude that factor 4 is necessary for safety and that further scientific research is required. Herewith attached, we send you these preliminary analyses. Unfortunately, we have not yet had the time to translate the analysis from KUL Campus Gent in English. We send you the Dutch version since Mr Gielen and Mr Broertjes are able to read this document. We will send you the translation next week.

On the basis of these two documents, **AVERE urges the Commission not to delete the preamble yet but to allow more time for further scientific research and assessment.** We are confident that the VUB and KUL Campus Gent are prepared to further participate in this process.

Unfortunately, we are unable to attend the motorcycle working group meeting of 14 April. However, we are at your disposal for a bilateral meeting any time as of 20<sup>th</sup> April.

Looking forward to receiving your reply.

Yours Sincerely,

Joeri de Ridder,  
AVERE President

Annick Roetyneck,  
AVERE LEV Policy Manager