Construction Equipment Association

Ms Kate McGivern
Neighbourhood Crime Unit
Crime Reduction Directorate
Home Office - Soapworks,
Salford

7th March 2024

Dear Ms McGivern,
I'd like to start by stating that the CEA very much welcomes the opportunity to provide the Home Office with our views on the proposed legislation. Our members have reviewed the requirements set out below and we offer a considered response against each.

Before going into the detailed response, please allow me to reiterate the CEA's overall position on the proposal, as submitted during the 2023 "Equipment Theft (Prevention) Bill: Call for evidence". In our submission, we stated:
"*The CEA agrees with the spirit of the Bill and understands what it is trying to achieve. We will therefore support the Home Office to make sure the legislation, if it comes into being, is fit for purpose.*
*However, in principle, the CEA does not see any justifiable reason for this Bill to be implemented. OEMs already offer, as an option, the affixing of forensic marking and the installation of an immobiliser. Today's customers therefore already have the choice of whether they wish to have forensic marking and/or an immobiliser included in their purchase. The choice is entirely theirs and the decision will be based on their own reasoning, taking into account the extra protection offered versus the extra cost incurred. If forensic marking and the fitment of immobilisers became mandatory, then this would remove the customer's right to choose.*
*The CEA is therefore of the opinion that market forces should be allowed to prevail and that customer choices should not be compromised by the imposition of unnecessary costly and burdensome requirements.*
*However, if the Bill does continue to proceed through the legal process, the CEA is keen to assist in its development in order that the final legislation is fair, practicable, and precise*."

It is worth adding that, as it stands today, type approval is not required for construction equipment. However, we are very much aware that the EU is developing a regulation that would require construction equipment to be type approved for it to circulate on public roads. We further understand that DfT is closely monitoring its development and is open to introducing a similar requirement in the UK. CEA's position, whereby it does not currently fundamentally oppose the Equipment Theft (Prevention) Act, is based on the fact that construction equipment does not currently require any form of type approval. However, if the situation was to change, for example if type approval became required to allow machinery to circulate on UK roads, then we would have to reconsider our position.

With all of the above in mind, here are our responses to the recently posed questions. For clarity, in the following text, your questions are in **bold** and the CEA response is in blue.

**GPS Systems**

**In the call for evidence we proposed a requirement for removable Global Positioning Service (GPS) systems to be forensically marked. We received suggestions that it is limited to cases where the receiver is visible from the outside of vehicle machine when it's not in operation. I was hoping for your views on how best to describe removeable GPS systems and should the definition be specific 'for agricultural / construction use'?**

Removable Global Positioning Service equipment is not normally installed in CEA equipment. We are therefore, unfortunately, not in a position to provide an answer to this question.

**Immobilisers**

**We realise, in the call for evidence document, that we listed the industry standard but that it was only applicable to after-market fittings and we need to include those that do it within the manufacturing process.**

The CEA's view is the descriptions provided in the list below still heavily tend toward consideration of aftermarket type devices. We understand that the Home Office intends to include in the legislation immobiliser devices that are incorporated during the manufacturing process but we feel that the requirements are still geared towards aftermarket devices. This is because the proposals do not consider the type of sophisticated, integrated functions that are found in many construction and mining products today. For example, many of our members' products have an integrated function that (if requested) can prevent starting of the machine and would require the operator to use a personal code. Further there is the possibility to use calendar-based functions available that permit the machine to be disabled for a discreet period, e.g. 24 hours or across a weekend. These features are incorporated into the machine control system and have the possibility to be operated remotely using the OEM's telematics system (e.g. if notification of a stolen machine was received, the OEM would have the possibility to shut it down remotely if requested).

Having a set of prescriptive measures, such as those that have been suggested, could mean that such machines would need to have an additional immobiliser installed, as an integrated device could not, for example, be separately marked as proposed.

The CEA also reminds the Home Office of our concern regarding the aftermarket installation of immobilisers. There are a great many types of immobilisers available in the aftermarket, hence it is not possible for OEMs to approve each and every one. This leads to an increased risk of a non-approved immobiliser being fitted once the product has left the OEM's factory. This would result in a significant risk that the machine would subsequently be rendered non-compliant with other regulations, such as electro-magnetic compatibility. Some OEMs allow

their dealers to install specific, approved immobilisers to in their equipment since these will already have been EMC tested, but the CEA is aware that non-approved immobilisers do get installed in the aftermarket.

Finally, the immobiliser requirements seem to focus only on machinery that is powered by an internal combustion engine. We wonder how battery powered machinery will be dealt with in the legislation.

- **A permanently installed system – the whole immobiliser is permanently and securely fixed to the vehicle.**

  Please refer to the above answer

- **The main source of power for the immobiliser must be the vehicle's battery.**

  Agree

- **It must be passively set. Setting of the immobilisation function may be achieved by the ignition being off; or the ignition key being out of the ignition. Setting of the immobilisation function should be achieved within 60 seconds of the ignition being off and/or the ignition key being out of the ignition. In addition, the setting of the immobiliser <u>may</u> be achieved by a deliberate action or actions by the user.**

  A key safety requirement that OEMs state in their operator's manual is that, whenever the operator leaves their station, they switch off the engine. This is a fundamental safety requirement and is enforced by construction site managers. Some work and site operations require operators to mount and dismount the machine several times per hour. If the immobiliser was to automatically set whenever the ignition is off or the key removed, it will likely impede operators. We are concerned that this could lead to them leaving the engine running when dismounting their machine. For this very reason, some OEMs allow a grace period of up to one hour, which delays setting the immobiliser after key-off. This gives flexibility for the different use cases and applications across a variety of machines. The grace period times are configurable for each machine and may be adjusted through an OEM authorised service tool.

- **The immobiliser must isolate or block a minimum of two operating circuits or systems; this may be two or more of the following: fuel supply, ignition, starter, engine management system, fuel pump assembly, or fuel cut-off solenoid; or a minimum of one control unit with coded intervention. If only one control unit with coded intervention is used, the control unit cannot be the starter motor, because this would enable the vehicle to be pushed and/or bump-started.**

  The CEA generally agrees with the requirement to isolate or block a minimum of two operating circuits or systems. However, we ask that consideration is given on how this applies to smaller machines where two forms of isolation/blocking is not always

possible. We request that exceptions are allowed for smaller machines, where only one form of isolation/blocking is required.

There also seems to be a conflict in the text, in that it starts off stating that two or more systems/circuits must be blocked but it then goes to say that if only one intervention is used, it must not be the starter. We therefore suggest the first sentence states that at least one circuit or system is blocked. This would also alleviate the issue for smaller machines as described above.

Our members report that some machines have one circuit preventing engine operation/starting and the second circuit prevents a primary function of the machine (i.e. implement lockout, transmission lockout, compacting function, etc.). We recommend that the regulation allows additional lockout functions other than those listed above.

Also, it is unfeasible that construction equipment could be pushed and/or bump-started. This might be feasible for ATVs but construction equipment is generally large and heavy and usually incorporates either a torque converter or hydrostatic transmission in the drivetrain. Additionally, many also have spring applied hydraulically released park brakes, meaning they cannot be bump started as it requires the engine running to release the brake. These factors rule out pushing and/or bump starting as a means of theft.

- **The immobiliser must be concealed from view and accessible only by the removal of an access panel or trim panel which should require tools to access.**

  Many immobilisers comprise more than one component. An example might be a CAN controlled keypad immobiliser, where the immobiliser/keypad must be easily accessed by the operator and is therefore not concealed from view. However, the engine ECU, or other separate unit that forms part of the immobilisation system, would be out of sight and not easily accessible.

  We suggest that the wording is changed so that the instead of requiring the immobiliser to be concealed from view, it should read something like “at least one significant part of the immobilisation system, without which the vehicle cannot be started, is concealed from view and accessed only with tools or key’.

  A further view expressed by members is that having one part of the immobiliser system visible, e.g. keypad, acts a deterrent to thieves and could prevent machines being damaged when broken into during an attempted theft.

- **The user/owner of the vehicle shall have no facility to directly change or override the functionality or performance of the immobiliser system. In particular, it shall not be possible for the user/owner to permanently isolate detectors or change the immobilisation function.**

Whilst we agree with the intent of this requirement, we are not sure whether this point is practical in its stated form. With the correct know-how, tools and sufficient time, it is possible to bypass or override almost any design of immobiliser, and certainly any physical immobiliser.

We also believe that the second sentence is unnecessary as it is already covered by the first.

- **The immobiliser should be visibly marked with the following information, which should not be visible from the outside of the vehicle:**
    - **The manufacturer's name or trademark**
    - **The model number or name**
    - **The serial number or batch number or date of manufacture.**

This requirement seems to be aimed at immobilisers that are installed in the aftermarket. Typically, as described above, our members' machines would not have a separate immobiliser control unit to the already installed main machine control unit. In this instance, OEMs would not have anything to mark.

- **Can you offer further thoughts on what this list needs to include, do we need everything on this list – can we exclude anything? Do we need to split the list between after-market & pre market?**

  The CEA wishes to reiterate that we are delighted the Home Office has sought our opinion on this piece of legislation. We are very pleased to be given the opportunity to share our views on the above questions and we remain available for further consultation. If you feel that a face-to-face meeting with the CEA would be of benefit then we will be more than happy to visit you at your office to discuss this important matter.

Yours sincerely,

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