

Submitted by the experts of Global NCAP and ANEC on behalf of Consumers International

Note Prepared by the Global New Car Assessment Programme

Public Interest Litigation Regarding Motor Vehicle Safety in India

1. The Global New Car Assessment Programme (Global NCAP) is the international platform for co-operation among New Car Assessment Programmes (NCAP). It is a UK registered charity, has consultative status with the United Nation's Economic and Social Committee, and participates in meetings of the World Forum for Harmonisation of Vehicle Regulations (World Forum) and the United Nation's Road Safety Collaboration¹. Global NCAP also provides technical and funding support to newly established NCAPs in the rapidly motorising regions of Asia and Latin America.
2. There are now nine NCAP or similar bodies operating around the world. They typically provide independent consumer information about the safety performance of motor vehicles. Their test activity is usually voluntary and supplements either national or regional regulatory requirements for vehicle safety under systems of type approval or self-certification.
3. Since 2014 Global NCAP has supported the 'Safer Cars in India' project developed with the Institute for Road Traffic Education (IRTE) based in New Delhi. This project has carried out independent crash testing of some best-selling and important passenger cars from the Indian market. This involved testing to the requirements of both UN regulation 94 for frontal impact at 56 km/h and a typical NCAP configuration for an offset deformable barrier frontal at 64 km/h².
4. The results of the Safer Cars for India project revealed that top selling brands in India would fail to pass the requirements of UN regulation 94 and scored zero stars in the NCAP tests. In the absence of effective crashworthiness standards many popular models on the market in India display poor body-shell integrity and lack of airbags that lead to a high risk of fatal or serious injury.
5. In March 2015 Global NCAP published a report 'Democratising Car Safety: Road Map for Safer Cars 2020' which set out a series of recommendations to all UN Member States regarding passenger car safety³. The most important legislative priority included in this report recommends that all UN Member States that have not already done so apply the UN regulations relating to front and side impact, and for seat belts and their anchorages (UN Regulations 94, 95, 14 and 16 respectively). We proposed that these standards be applied in two phases; firstly for new models by 2016 and then for all cars in production by 2018.

¹ See http://issuu.com/globalncap/docs/global_ncap_annual_report_2014.

² See: <http://www.globalncap.org/road-map-for-safer-cars-for-india-debated-at-delhi-conference/> and <http://www.globalncap.org/crash-tests-show-indias-cars-are-unsafe/>

³ See: http://issuu.com/globalncap/docs/road_map_2020.

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6. The Indian Government has subsequently announced that it will legislate for frontal and side impact crash test standards. They have also adopted two phases of introduction from October 2017 for new models and from October 2019 for all cars in production. Global NCAP welcomes this legislative initiative of the Government of India. We continue to believe that these standards could be feasibly introduced on the timescale we proposed in our Road Map report. Nevertheless, we are pleased that legislation is now planned, albeit one year behind our proposed timetable, and trust that it will be consistent with the requirements of Regulation 94 and 95.
7. Global NCAP also welcomes the planned introduction of a Bharat New Vehicle Safety Assessment Programme (BNVSAP). We believe that an Indian NCAP initiative of this kind will help raise consumer awareness of vehicle safety issues, encourage vehicle manufacturers to provide models with improved levels of safety, and supplement the legislation due to be introduced from October 2017. Global NCAP recommends that the BNVSAP align its test protocols as closely as possible to other recently formed NCAP programmes in the ASEAN region and in Latin America. We particularly recommend that the impact speed for the frontal impact test be set at 64 km/h.
8. The Indian Government's commitment as regard vehicle safety are timely as they are consistent with the Global Plan of the UN Decade of Action for Road Safety (2011-2020)⁴ and related UN General Assembly resolutions⁵ and the recommended actions recently agreed at the 2nd Global High Level Conference on Road Safety hosted by the Brazilian Government⁶. The meeting, attended by delegates from 110 participating countries, and seventy ministers of transport, health, and interior, including the Indian Minister of Transport, adopted the Brasilia Declaration which inter alia calls on UN Member States to: *Promote the adoption of policies and measures to implement United Nations vehicle safety regulations or equivalent national standards to ensure that all new motor vehicles, meet applicable minimum regulations for occupant and other road users protection, with seat belts, air bags and active safety systems such as anti-lock braking system (ABS) and electronic stability control (ESC) fitted as standard;*
9. Global NCAP is aware of the safety concerns generated by the potential growth of the market in India for quadricycles. In 2014 our partner the European New Car Assessment Programme crash tested four quadricycles available on the market in Europe (see: <http://www.euroncap.com/en/vehicle-safety/safety-campaigns/2014-quadricycles-tests/>). The results revealed critical safety problems with significantly lower levels of occupant protection.
10. Global NCAP is concerned that the safety levels of quadricycles are clearly deficient and inadequately regulated. The standards of safety for this class of vehicle (category L) are currently under review by the World Forum's Research Working Group on Passive Safety.

⁴ See: http://www.who.int/roadsafety/decade_of_action/plan/global_plan_decade.pdf

⁵ See: See: A/RES/68/269; Improving Global Road Safety, adopted 10 April 2014

⁶ See: http://www.who.int/violence_injury_prevention/road_traffic/Brasilia_Declaration/en/

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Global NCAP believes that the requirements for quadricycles whether applied in India or anywhere else should as a minimum include adequate body shell strength that can support the mandatory use of air bags and seat belts; anything less than this exposes the occupants to a high risk of fatal or serious injury. It is noteworthy that this approach to the regulation of quadricycles would be consistent with the text of the Brasilia Declaration referred to above.

11. Global NCAP welcomes the debate about motor vehicle safety now occurring in India which is clearly serving both as a catalyst for positive action by the Indian Government and in raising consumer awareness of the issues involved. These are complex matters that in some areas are connected to international regulatory developments and best practices. Global NCAP has always made clear its willingness to assist the Indian Government and other relevant stakeholders in their deliberations on vehicle safety issues. As regards the current instances of Public Interest Litigation we are available to assist the Court with technical and policy expertise if that would be considered useful.

7/12/15