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Hearing of Mr Alexander Dobrindt

EMIS inquiry committee - 19 October 2016

Greens/EFA questions to the Member States' Ministers: Who is responsible for type approval?

The EMIS Committee has heard from testing facilities and type approval authorities that they are not responsible for implementing and enforcing Article 5(1) (limit values are required to be met "in normal use") and 5(2) (defeat device ban), but rather narrowly only to apply NEDC ("New European Driving Cycle") and the implementing regulation. As the EMIS proceeds to hearing Member States' governments in its investigations regarding possible maladministration, we expect the Ministers now to clarify which authorities in the Member States are responsible for ensuring that the whole Regulation 715/2007/EC on "type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information" is implemented and enforced.

Why no enforcement action based on evidence prior to US EPA and CARB legal action against VW?

Investigation programmes to detect defeat devices were launched by several countries after the US EPA (Environmental protection Agency) and CARB (California Air Resources Board) started legal proceedings against VW. Why were such investigation programmes not launched by the DE authorities after JRC (Joint Research Centre) and other organisations came up with similar PEMS (portable emissions measurement systems) measured evidence of real world emissions of diesel vehicles – already from 2009 and before –, as was provided to the US authorities by ICCT (International Council on Clean Transportation)?

It seems that the European Commission officials working on car emissions were in the know about defeat strategies linked to type approval test temperature window, cold start, and temporal adjustment after engine running beyond the test time already when JRC tests were published. It would be highly unlikely that MS authorities would not have been aware of the practices of PEMS, and the claim that KBA (Kraftfahrt-Bundesamt) authorities had no reason to suspect defeat devices is simply not credible.

Why no enforcement action based on the evidence discovered in the post- dieselgate investigation?

- Clear evidence of breaches of obligation to meet limits "in normal use":

The KBA investigation confirmed that the vehicles tested emitted "in normal use" measured with PEMS equipment several times the regulatory limit (on average, the maximum KBA measured on-road NO_x emission level was at 491 mg/km. For reference a Euro VI heavy-duty truck emits about 180 mg/km of NO_x on the road and a Euro 6 gasoline car about 50 mg/km.)

The EMIS has heard evidence that the 80 mg/km limit is possible to meet in all foreseeable normal conditions, also beyond the adopted RDE test boundary conditions. This was evidenced in the KBA investigations which also found vehicles with relatively low NO_x emissions, even when tested on the road, for example the Euro 6 versions of the VW Touran, VW Passat, and Audi A3 remained below the 80 mg/km limit in all of the KBA test runs.

- Clear evidence of defeat devices:

The report proves that all vehicle manufacturers are using defeat devices as defined in the Euro5/6 Regulation. Emissions increased drastically in a number of the test vehicles even when the testing conditions changed only slightly. Among the worst offenders were two Renault Kadjar models that emit up to 18 times more nitrogen oxides (NO_x) when tested on the road than in the laboratory, a Suzuki Vitara (14 times higher), a Land Rover (13 times higher), a Dacia Sandero (12 times higher) and an Opel Zafira (11 times higher).

In addition to the discovering the EGR shutdown after 22 minutes in 5 Fiat models, the KBA investigations provided similarly clear evidence of defeat devices in 48 of the 53 vehicles tested that had higher emissions measured in hot start over the NEDC than in the cold start, and the use of temperature windows without technically justifiable need. [The KBA investigations found reduced NO_x abatement temperature windows below 20 °C (Alfa Romeo, Fiat, Hyundai, Jeep, Opel), below 17 °C (Audi, Nissan, Porsche).

With the results of the KBA investigations, the German authorities are in possession of evidence of infringement of the regulation. The Minister will need to explain the lack of further investigation and enforcement action. Voluntary recalls do not constitute sufficient or appropriate to remedy infringement of the provisions of the Regulation in our view.

Why this is important?

- It is possible to make current vehicle fleet cleaner

It is not sufficient to wait until the (inadequate) RDE test becomes applicable for all new vehicles sold in 2019 to improve diesel vehicles emission performance. The Euro5 and Euro6 vehicles that have been investigated continue to circulate and pollute on the road. The recalibration of the Opel Zafira demonstrates that by removing defeat strategies and optimising the pollution control devices already installed in the vehicles it is possible significantly improve their emission performance (DUH results on Opel Zafira on road emissions drop from app 450 mg/km to 95 mg/km with recalibration).

- Lessons learned for internal market regulation

Lack of enforcement of internal market rules is a serious failure and should be addressed for all EU internal market regulation. The adoption of implementing rules in comitology has proven to water down, narrow and distort the base legislation. In the case of type approval, it seems that the implementing regulation has become the law, while provisions of the base regulation are not effectively enforced as binding. The adoption of CFs way beyond testing uncertainties and other loopholes in the RDE test procedure is yet another proof of the system failing the original aim of the legislation.

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