

## ***EMIS hearing of 12 September 2016***

### **Questions to Elzbieta Bieńkowska, Commissioner for Industry and Entrepreneurship**

No.	Question
1	<p>Did you have, at any time before the emissions-cheating scandal, any suspicions that some manufacturers were deploying strategies to beat the emissions-testing system? Do you consider that the Commission, during your term of office, complied with the obligations set out in Article 14(3) of Regulation 715/2007, which provides that the Commission is to keep under review the procedures, tests and requirements as well as the test cycles used to measure emissions and that, if the review finds that these are no longer adequate or no longer reflect real world emissions, the Commission is to adapt them so as to adequately reflect the emissions generated by real driving on the road? Do you consider that the assessments carried out by the Commission and the introduction of tests reflecting real-world driving conditions were carried out in a timely manner?</p> <p><i>We had no reasons to suspect specific car manufacturers of deploying illegal emissions strategies, nor any evidence of concrete cases of any wrongdoing before the VW scandal revelations in September 2015. Instead it was quite clear that the current European emission testing procedure for Light Duty Vehicles was no longer adequate to cope with the latest vehicle technologies. For this reason, in fulfilment of the obligations of Article 14(3) of Regulation (EC) 715/2007, our utmost priority has been to rapidly introduce new testing methods, the real-driving emissions test (RDE) and the new laboratory test cycle – the Worldwide Harmonised Light-Duty Vehicle Test Procedure (WLTP), as well as to revise the Type Approval Framework.</i></p>

1	<p><i>When I took up my duties as Commissioner for Industry and Entrepreneurship in November 2014, the work on the RDE test procedure was at a very advanced stage. The assessment of the Commission with regard to the need of RDE testing was carried out according to the provisions of Article 14.3 of Regulation (EC) 715/2007. The RDE testing was proposed by the Commission according to the timing outlined in the CARS 2020 Communication that was published in 2012 in full transparency with the European Parliament. Immediately after the positive vote in the Technical Committee on Motor Vehicles (TCMV) on the 1<sup>st</sup> draft RDE Regulation in May 2015, the draft of the 2<sup>nd</sup> RDE Regulation was tabled for discussions, which led to the positive opinion of the TCMV in October 2015. The Commission then adopted Commission Regulations (EU) 2016/427 and 2016/646 in March and April 2016 respectively, after the end of the scrutiny period by Council and European Parliament. We continue to work intensively on the 3<sup>rd</sup> RDE act to be presented for the TCMV vote still this year and on the 4<sup>th</sup> RDE act, which is expected to be voted in the TCMV in the first half of 2017.</i></p> <p><i>Following the Volkswagen revelations, I also asked my services to reassess and substantially rework the proposal for a revised Type-Approval Framework in order to make in particular its market surveillance provisions and compliance mechanisms more stringent and ambitious. As a matter of fact, this work had already started before 2014 and was close to finalisation when the emissions scandal was revealed in September 2015. The Commission rapidly adopted the proposal on 27 January 2016 that aims to ensure greater quality and independence of vehicle testing, and more surveillance of cars already in circulation. We count on the European Parliament and the Member States in the Council to support its adoption as soon as possible, preserving the level of ambition proposed by the Commission.</i></p> <p><i>More recently, in June 2016, Member States agreed to the ambitious WLTP legislation proposed by the Commission, to be put in place by September 2017. This will improve the measurements of CO2 emissions and fuel consumption in particular.</i></p> <p><i>On the above basis, I am confident that the Commission has done and continues to do all the necessary (and feasible) to comply with its legal obligations.</i></p>
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2 According to Euro 6, diesel passenger cars are not allowed to exceed the limit of 80 mg NO<sub>x</sub> per km. Why has the initial emission limit value of 128 milligram NO<sub>x</sub> in the Commission's RDE legislative proposal been changed? How would you explain European citizens the shift in your latest RDE proposal to a drastic increase of emission limits - namely a limit of up to 168 mg of NO<sub>x</sub> as of 2017 and as of 2021 a limit of 120 mg? Can we interpret this as a concession that 715/2007 was a badly made piece of legislation that was unrealistic from its very beginning?

*Regulation (EC) 715/2007 was drafted and adopted on the basis of a detailed impact assessment and technical analysis and with the goal to tackle as soon as possible the most urgent air quality problem at that time Particulate Matter (PM).. The New European Driving Cycle (NEDC) - the laboratory test procedure - was kept as the only procedure to assess pollutant emission because waiting for the development of a new test (WLTP) would have significantly delayed any progress in the matter. The NEDC test procedure has been effective in forcing the deployment of the Diesel Particulate Filters (DPF) on all diesel vehicles and as a consequence PM emissions have been strongly reduced. Concerning NO<sub>x</sub>, with the implementation of Regulation (EC) 715/2007 the NEDC proved to be insufficient to guarantee compliance with regulatory NO<sub>x</sub> emission limits of diesel vehicles under real driving conditions.*

*Currently, diesel air pollutant emissions measured in real driving conditions are on average 400% higher than the regulatory limit of 80mg/km measured in laboratory conditions. That is why we are complementing the testing method with the introduction of the RDE test procedure. The RDE test will have a net effect on the amount of air pollution emitted by cars. Today's divergence will be brought down from the current average of 400% to 110% from September 2017 and to 50% from January 2020. This is a significant reduction compared to the current discrepancy. This is even more telling if put in terms of actual real emissions: we are moving from the current average real NO<sub>x</sub> emissions of 400mg/km down to 168mg/km (September 2017), then to 120mg/km (January 2020). So we are more than halving the real amount of NO<sub>x</sub> emissions.*

*Since the RDE tests are carried out in real driving conditions, which by their nature are variable, conformity factors (CF) were defined to determine the maximally allowable NO<sub>x</sub> emissions for individual RDE trips. The most challenging part of the CF analysis consisted in taking into account several sources of error, in particular the statistical randomness of the test procedure (which is also its main strength compared to a laboratory test cycle) and the accuracy of the measurement equipment. Due to these sources of uncertainty it could not be assumed that the emission limit defined in Regulation (EC) 715/2007 for normal conditions of use of a vehicle would imply a CF equal to 1. On the basis of the analysis, possible ranges for the CFs, which are in line with Regulation (EC) 715/2007, were identified. The CFs initially proposed by the Commission as well as those finally agreed in order to secure a swift adoption (for which a qualified majority of Member States was needed) are within the defined ranges (between 1.6 and 2.2 for the 1st step and between 1.2 and 1.6 for the 2nd step). The CFs adopted in the 2nd RDE Regulation do not imply an increase of NO<sub>x</sub> emission limits, but aim to ensure compliance with those limits and will enforce the use of appropriate technical means for NO<sub>x</sub> abatement by vehicle manufacturers. Moreover, the Commission intention is to take into account growing experience with tests and testing equipment in order to reduce the CFs as much as possible in the future. To that purpose, a periodical review has been foreseen in the 2nd RDE Regulation.*

3 Do you see any shortcomings of the Member States with regard to market surveillance and the type approval procedure? If so please specify those shortcomings? Did you call on any other EU institution or other Member States, as a matter of urgency and of high importance, to address the issue of NO<sub>x</sub> emissions that were multiples of the legal limits?

*Market surveillance is organised by Member States at national level and it is the responsibility of Member States to enforce the rules and to lay down the respective sanctions and apply them in case of infringement of these rules. Soon after the outbreak of the Volkswagen scandal the Commission, on 1 October 2015, sent a note to the Member States requesting information on the way they handle the Volkswagen case: the measures taken and penalties set out by them to address this case. In addition, a letter was sent on 22 October 2015 to TAAEG (Type Approval Authorities Expert Group) and TCMV (Technical Committee on Motor Vehicles) asking Member States about measures intended to address the VW case in accordance with Article 30(3) of Directive 2007/46.*

*The need to improve the Type Approval Framework and to strengthen the obligations of Member States for market surveillance was recognised by the Commission. Overcoming the lack of harmonised enforcement of the rules and deficiencies regarding transparency and independence of actions were the main goals of the reform. For this reason, the Commission was working on revising the current system well before the outbreak of the emission scandal. When I took over my duties as Commissioner in November 2014 the work on the proposal was at an advanced stage and was close to finalisation when the emission scandal was revealed in September 2015. I immediately requested my services to review the proposal in the light of the initial findings of the scandal and to make it more stringent and ambitious. The proposal was rapidly adopted by the Commission on 27 January 2016. It aims at strengthening the governance of the system. The revised type approval system would be more effective in helping to better detect non-compliance through more transparency and more checks both at pre-market (type-approval) and post-market levels (market surveillance including by the Commission). A supervisory system (peer review and Commission oversight) together with EU penalties would be put in place to ensure that all responsible parties for enforcement strictly adhere to the rules and apply the requirements in a harmonised manner across the EU. The independence of testing bodies would be reinforced by cutting direct commercial links with manufacturers and by joint assessment by the Member States and the Commission. Finally, procedures for EU wide recalls would be put in place for non-compliant vehicles to ensure a quick and coherent approach throughout the EU.*

*I would also like to stress that since the beginning of my mandate the Commission's priority has been to rapidly introduce new testing methods, such as the RDE test and the WLTP. This work was further accelerated after the outbreak of the emission scandal, notably by my decision to advance the TCMV vote on the 2nd RDE on 28 October 2015 and the positive vote of the Member States in June 2016 on the ambitious WLTP legislation proposed by the Commission (both will apply as of September 2017). The WLTP, in particular, will improve the measurements of CO<sub>2</sub> emissions and fuel consumption. The Commission continues to work intensively on the 3rd and 4th RDE acts.*

4 When were you first aware of the discrepancy between NO<sub>x</sub> emissions registered in the NEDC type approval test and emitted by vehicles in the real world? And secondly of the possible use of defeat devices - the application of different strategies during the type approval test and in real driving conditions - by car manufacturers? What action did you take to address these issues and when? What progress was made to rectify these issues up till now? Who did you inform about these issues and what was their reaction?

*I was made aware of the discrepancy of NO<sub>x</sub> emissions in real driving and on the test cycle and about the legislation concerning defeat devices in the briefings of my service, when I started my term as a Commissioner. Neither a specific case of defeat device nor any weaknesses in the regulatory framework with respect to defeat devices has been brought to my attention at that time, nor was the use of defeat device suspected. The importance of the car legislation files, in particular the emissions legislation and the type approval system reform, were brought to my attention from the very beginning of my mandate. I ensured the continuity in the work carried out by my predecessors in the time line already defined in CARS 2020 Communication. However, in the aftermath of the emission scandal I requested my services to make every effort to accelerate the work on the 2<sup>nd</sup> RDE Regulation and to rework the draft proposal on type-approval and market surveillance so as to further strengthen its provisions in the light of the lessons learned from the Volkswagen scandal.*

*As regards concrete evidence on the use of defeat devices by manufacturers I only learned in the context of the diesel vehicles' emission scandal.*

5 The JRC assessed the maximum possible margin of error of the measurement equipment (PEMS) used in RDE tests to be 30% but stated this was an over-estimation and not an average discrepancy. Based on this JRC analysis, the Commission calculated the average PEMS error of measurement to be 18.75%, leading to an absolute maximum conformity factor of 1.2. This was the value proposed by the European Commission to Member States. Why was this proposal opposed in the TCMV? EMIS has had several speakers confirming that the European car manufacturers can deliver clean cars respecting EU legal NO<sub>x</sub> limits in real world driving without any necessary adjustments (conformity factors) as introduced in the new RDE test. Are the agreed conformity factors of 2.1 (from 2017 to 2020) and 1.5 (from 2020), in the light of technical expertise presented by several organisations, justifiable? Why doesn't the technical committee's decision concerning RDE reflect scientific facts?

*In view of the vote in TCMV on the draft of the 2<sup>nd</sup> RDE Regulation, the Commission prepared an analysis to determine appropriate conformity factors (CF). The most challenging part of the analysis consisted in taking into account several sources of error, in particular the statistical randomness of the test procedure and the accuracy of the measurement equipment. The margin of error referred to in the question considers only the analytical accuracy of the PEMS compared to the measurement in the laboratory. Concerning the statistical randomness of the test procedure and its intrinsic variability, this on the one hand constitutes the essential improvement compared to the laboratory-based tests; on the other hand, because of this variability, a margin of tolerance on the single trip's emission results had to be taken in account. As I have pointed out in my answer to question 2, the CFs initially proposed by the Commission as well as those voted by Member States are within these defined ranges and are based on a scientific analysis.*

*The CFs adopted, although weaker in comparison to the initial draft tabled by the Commission, allow for considerable improvements of the air quality. The Commission also considers that the review mechanism of Regulation (EU) 646/2016 is the appropriate tool to bring down the margin of error as soon as possible in accordance with technological progress.*

6 According to euobserver.com, the Commission is lacking “the technical information that has been gathered in national investigations” from several Member States, which precludes the Commission from developing the guidance on the legality of cheating software known as defeat devices. Can you specify what kind of information and from which Member States is missing? <https://euobserver.com/dieselgate/134087>

*I will not comment on press statements, but will refer myself to the discussion that took place with Member States during the Transport Council of 7 June 2016, which touched both on the clarity of the definition of defeat devices and the outcome of the national investigations.*

*Regarding the definition of defeat devices, the Commission is of the opinion that it is clear and the exemptions to its prohibition well framed. Entering into further detail regarding the legality of certain emission control systems is a matter of enforcement practice on a case-by-case basis. In order to ensure a harmonised approach across the EU, the Commission has offered to provide practical guidance to the national Type Approval Authorities on how to handle emission control systems at type approval. The Commission plans to come forward with such guidance before the end of the year.*

*Some Member States have already prepared reports presenting the results of their national investigations. These reports have been made available to the Commission and the general public at the same time. In order to be able to properly assess the content of the national reports and to compare their findings, the Commission would however require the detailed data behind the aggregated results which are not public and up to now these have not been submitted. I have asked the relevant Member States to transmit this additional information to Commission services. I am expecting further input from Member States and I will take all necessary steps to obtain the information. The issue is complex and a lot of technical information is needed in order to be able to make an independent judgement. On 27 July 2016 the Commission transmitted to the European Parliament a first overview on the national investigations based on the available data.*

7	<p>The Director-General of DG Environment wrote to the Director-General of DG Enterprise on 19 November 2014 stating “We continue to believe that DG Enterprise should investigate the regularity – and, if confirmed, demand corrective action – of certain current practices [in which] certain manufacturers deploy emission abatement techniques that are switched off at low temperatures or when the vehicle needs additional power.”</p> <ul style="list-style-type: none"> <li>- Were you aware of this exchange of letters? If not, do you know why you were not informed?</li> <li>- Were you aware of the exchange of letters in February 2013 between the Danish minister, Commissioner Tajani and Commissioner Potočnik regarding vehicle emissions?</li> <li>- Why did you not instruct your Directorate-General to investigate the regularity of the practices in Member States and car industries, and why did you not initiate corrective action, including infringement procedures?</li> <li>- Have you asked the Legal Service to advice on the type of corrective actions that could be taken? If yes, when, and what were the results? If not, why not?</li> </ul> <p><i>I was not aware of these exchanges of letters at the beginning of the mandate. It is true that the letters mentioned referred to the general concept of defeat devices. However they did not provide any additional evidence that might have disclosed concrete cases of defeat devices. In this light, even if I would have been aware of the letters, I would not have instructed my Directorate-General, to investigate or to take concrete actions against individual vehicle types or open infringement procedures in the absence of concrete evidence. Under the current type approval system, the Commission is not directly responsible for market surveillance. The letters stated facts that were known to all type-approval authorities and it is the Member States' responsibility to investigate whether car manufactures are using illegal emission control systems. In the light of the emission scandal, the Commission has proposed a new type-approval system that gives the Commission a supervisory role over the enforcement activities of Member States.</i></p> <p><i>Concerning your last question, my service always works in close consultation with the Legal Service of the Commission. While the initiative for launching any infringement procedures, and the choice of which specific potential breaches should be brought forward, rests with each individual service, we are of course required to consult the Legal Service with regard to all formal steps in the pre-litigation phase of an infringement. As a matter of fact, we cannot go forward with any infringement procedure unless the Legal Service has agreed to it. .</i></p>
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8 Implementing Regulation (EC) No 692/2008 stipulates that the manufacturer shall provide the approval authority with "information on the operating strategy of the exhaust gas recirculation system (EGR), including its functioning at low temperatures. This information shall also include a description of any effects on emissions". The Implementing Regulation also states that "At the request of the Commission, the approval authority shall provide information on the performance of NO<sub>x</sub> after treatment devices and EGR system at low temperatures." Have you ever requested such information from type approval authorities, on the basis of this Regulation? Can you specify whether you undertook any formal action in this regard for both the time before and after September 2015?

*The requirements of Article 3(9) of Regulation (EC) 692/2008 refer to the obligation for the manufacturer to provide information to the Type Approval Authority regarding the strategy adopted by them to control NO<sub>x</sub> emissions at low temperatures on their diesel vehicles<sup>1</sup>. Such information is not checked by a physical test during the type-approval of the vehicle (the manufacturers only hand-over the relevant documentation) and therefore of very limited use for the detection of potential defeat device. As it stands now, Regulation (EC) 715/2007 foresees the execution of the Low Temperature test at -7 C only for vehicles equipped with spark-ignition engines (ex. gasoline), not for diesel vehicles (documents only). This is the reason why the Commission has not requested such information from the Type Approval Authorities nor has undertaken any formal action in this respect in the context of the emissions scandal.*

*However, the Commission, since 2009 has undertaken the revision of all the tests carried out for the type-approval of vehicles, including the Low Temperature test. The priority has been given to the Type 1 test (WLTP), which was completed and voted by the Member States in June 2016. Since the beginning of 2016 the Commission is chairing the working group on WLTP Low Temperature Test within the United Nations – Economic Commission for Europe (UNECE) with the objective first to review the existing procedure and emission limits for gasoline vehicles, and second to introduce test procedures also for diesel vehicles.*

9 By now it is clear the European Commission missed years of warnings about the defaulting car emissions testing system in Europe. There is clear evidence that European regulators stayed too close to the auto industry bowing to pressure by the national governments from those EU countries with the biggest car industries.

- Commissioner, no later than a month after US regulators revealed the Volkswagen scandal, officials from the EU's 28 Member States gathered in Brussels to decide how to respond. On the table was a plan to test auto emissions on the road rather than just in a laboratory, making it impossible to cheat. According to people involved in the talks, officials from the EU's big car producing states said that the plans for overhauling the testing system went too far. Representatives from Spain, UK, France, Italy and Germany urged that proposals from the European Commission be watered down evoking possible negative consequences for their economies and high qualified jobs losses. What was the mandate of your aides present in those talks? Did you instruct them to urge national governments to back a watered-down deal, the very same deal against which Netherlands voted against on the grounds that it was not ambitious enough?

*As described under my response to Question 2, the initial Commission draft for the 2<sup>nd</sup> RDE Regulation was very ambitious. It contained CFs identified at the lower end of the ranges (1.6 for the 1st step and 1,2 for the 2nd step). Based on the position papers received from Member States prior to the TCMV meeting it was clear that the discussions and agreement based on the draft would be very difficult and this was confirmed during the TCMV meeting. It became clear (see MS position papers and TCMV minutes) that a majority support for the proposal by Member States was not likely. In particular, two elements of the draft regulation were questioned by the Member States: the CF and the dates for mandatory application of the RDE procedure. Thus, additional margin of flexibility were considered within the following limits:*

*- First, it was extremely important to ensure the timely adoption of the implementing measures so that the new Real Driving Emissions (RDE) test could be fully implemented for all new types of vehicles to bring NOx emissions down as soon as possible.*

*- Second, CFs had to remain within the initial ranges identified by the Commission to ensure that they would be compliant with the emission limits fixed by the co-decision Regulation (EC) 715/2007.*

9 - Third, a revision clause had to be included for the 2nd step that would apply from 2017 on an annual basis to ensure that manufacturers immediately start work on designing vehicles that will comply with a conformity factor close to 1.

*The Commission representative chairing the meeting led the discussions in line with this strategy while at the same time endeavoured to keep any possible compromise as close to the initial draft. Still, no qualified majority could be achieved on that basis and further changes had to be introduced.<sup>1</sup>*

*The Commission is aware that the final text voted in the TCMV raised criticism within the European Parliament as to the level of conformity factors. However, it should be stressed that this text needed to factor in the majority requirements of Member States in the Committee. Although the adopted text is weaker than the initial text of the Commission, it still allows for considerable improvements of the air quality. Given technological progress regarding the portable measurement equipment, margin of inaccuracy will be subject to annual review, as explicitly provided in the 2nd RDE Regulation, in order to bring it as close to 1 as possible. The Commission in its statement "Towards comprehensive and efficient emission testing in the EU" committed itself to making use of this revision clause to propose a reduction of the second CF already in 2017 and follow the evolution of PEMS technology on an annual basis thereafter. The Commission considers the review mechanism of Regulation (EU) 646/2016 to be the appropriate tool to address the European Parliament's concerns.*

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<sup>1</sup> An additional recital on boundary conditions; a reference to transfer functions moved from the recital to a legal provision and a move of the dates for step 2 from September 2019 to January 2020 and from September 2020 to 1 January 2021

10	<p>At the Transport Council of 7 June you stated that the diesel emission scandal is a problem of enforcement, not of clarity of the legislation. Which steps is the Commission undertaking to ensure the law is therefore enforced (apart from introducing RDE and revision of type approval legislation) and that cars that are on the road today are brought in compliance with its requirements, in particular :</p> <ul style="list-style-type: none"> <li>- Where does the Commission stand in its investigation regarding the legality of the use of defeat devices or strategies such as the extensive use of thermal windows (switch off below 10°, 17° or 20° i.e. between 50 to 90% of the time) or switching-off after the test cycle (22 minutes)?</li> <li>- What actions does the Commission expect Member States to undertake to ensure manufacturers bring vehicles on the market into compliance? What is the Commission considering to do if these actions are not undertaken?</li> <li>- Is the Commission expected to launch infringement procedures against Member States for not complying with the requirement of introduction of penalties?</li> </ul> <p><i>The Commission is currently analysing, in close discussion with Member States, the legality of certain practices such as the use of thermal windows and switch-off after some time from engine start (after 22 minutes). The actions to be taken will depend on the outcome of these investigations. What I can say already now is that any strategy adopted by a manufacturer, consisting in decreasing or turning off the functioning of a pollution control device for reasons that have no link whatsoever with engine protection and/or vehicle safety, shall be considered as a practice violating the law. In such a case the responsible Member State must take appropriate action against the manufacturer. If the Member State does not take action with regard to the non-compliant vehicles, that is require from the manufacturer that vehicles are brought into conformity the Commission will consider the appropriateness of launching infringement procedures. If the manufacturer has breached one of its obligations set out in the type-approval framework, this may also entail penalties, which are imposed by Member States.</i></p> <p><i>According to Directive 2007/46/EC, it is up to the Member States to ensure that the vehicles are recalled and repaired; the Commission has no formal role in these actions. The Commission is, however, following the measures taken by the Member States closely, to ensure that EU Law is respected. If the Commission comes to the conclusion that this is not the case, it may start infringement cases against the Member States who do not take the necessary measures.</i></p> <p><i>As regards the sanctions for infringement of the type approval or emissions rules by car manufacturers, they may either be implemented generally for all infringements of type approval requirements under Directive 2007/46/EC or specifically for Regulation 715/2007. All Member States have notified their measures of transposition of Directive 2007/46/EC which sets the general type approval framework, including measures on penalties. This information suggests that they have put in place a system of penalties, although some Member States have not communicated their national rules to the Commission separately under Article 13 of Regulation 715/2007. The Commission has recently asked several Member States to provide further information on the measures taken to comply with the obligation to make national provisions regarding penalties effective, proportionate and dissuasive. While the EU-Pilot letters themselves do not constitute a step in an infringement procedure, the analyses of the information provided by the Member States may become the basis for launching infringement procedures if deemed necessary by the Commission.</i></p>
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11 Article 12(2) of the Regulation 715/2007 allows Member States to provide financial incentives for the introduction of Euro5 and 6 to cover the full cost of abatement devices necessary to respect the emission limits though at the time it was already clear that real emissions were several times higher than those measured during type approval. All measurements on cars using PEMS confirmed this data and the Commission was well aware that Euro 6 couldn't meet emission limits on RDE. Taking into account that diesel circulating fleet is far from respecting the emission limits of NO<sub>x</sub> and CO<sub>2</sub>, causing hundreds of thousands of premature deaths and billions in health costs, how do you think these incentives are justified? Has the Commission ever verified the correct application of the article in question, considering it was well aware about the lack of conformity between RDE and type approval? Do you think that providing these financial incentives for vehicles that respected emission limits exclusively when tested for type approval was the correct interpretation of the legal provision?

*The application of financial incentives is the responsibility of Member States. Regulation (EC) 715/2007 sets out a framework for the conditions under which such financial incentives could be applied to encourage the early introduction of Euro 6 vehicles. The Commission has played a coordination role by drafting guidance for a EU harmonised application of financial incentives. This was considered necessary to avoid the introduction of different, or even conflicting, financial incentive schemes in the various Member States. In this regard, the Commission is not aware of any case where these incentives would have been applied in a manner not in line with the requirements of Community law.*

*Regarding the introduction of Euro 5/6 vehicles, it has to be explained that, due to serious air quality problems of many European cities with particles (PM10 and PM2.5), it was considered very important to replace pre-Euro 5 vehicles as soon as possible. In fact pre-Euro 5 diesel vehicle were not equipped with particulate filters, while the Euro 5 limits on PM, as set in Regulation (EC) 715/2007, forced the manufacturers to install particulate filters (DPF) on all Euro 5 diesel vehicles. Therefore, the incentives foreseen in the above mentioned Regulation served as well the purpose of fostering the deployment of DPFs.*

*CO2 emission limits, as mentioned in the question, do not exist for individual vehicles. They are defined on a yearly basis for the new vehicle fleet average in accordance with Regulation (EC) 443/2009 and not by Regulation (EC) 715/2007.*

12	<p>Do you believe that the EU legislation on vehicle emissions is sufficiently clear regarding the ban of the use of defeat devices? If yes, why are some manufacturers claiming that reducing the effectiveness of emission control technologies under certain conditions, when clearly not justified and not applied in a consistent manner across the single market, is allowed under EU law, and not allowed under U.S. law, which also bans the use of defeat devices?</p> <p><i>The legal provisions on the prohibition of defeat devices, including exemptions, as defined in Regulation (EC) 715/2007, are the same in the US and the EU. The definition of "defeat device" is clear and has never been questioned since its introduction 18 years ago. There is no basis for the claim of car manufacturers that the reduction of the effectiveness of emission control technologies in general would be allowed more easily in the EU than in the US legislation. It is the responsibility of Member States to enforce these legal provisions.</i></p> <p><i>The EU legislation currently applied does not require manufacturers to declare the engine or emission control strategy to Type Approval Authorities (TAAs), beyond the formal information document set out in Appendix 3 to Annex I of Regulation (EC) No 692/2008. The 2<sup>nd</sup> RDE Regulation rectified this shortcoming as it stipulates the obligation for manufacturers to provide information on their emission control strategy as part of type-approval. In addition, the Commission is currently drafting guidance on the handling of the approval of emission control systems at type-approval.</i></p>
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