

# Cars fit for the road

Will final talks produce robust vehicle approval system

November 2017

## Summary

Almost two years since the type approval reform was proposed, the European Parliament, Member States and the Commission are entering the final negotiations to agree the post-Dieselgate rules for approving cars. The third meeting is scheduled for 23 November and this briefing summarises the key elements of a robust regulation that need to emerge from the discussions:

1. Strong powers for the **European Commission to check cars on the road** perform in the same way as those that were approved; and **review national regulators** to ensure a consistent and appropriate interpretation of Type Approval requirements
2. Agreeing a **minimum level of checking by national market surveillance authorities** to ensure vehicles meet all EU environment and safety requirements (no test cherry-picking)
3. **Independent members of the Forum** to maintain its independence; and a **public database** with key type approval and vehicle data
4. The powers for the Commission to continue to improve emission tests, in particular **real-world and in-use CO2 tests**

The time is running out to allow the Estonian Presidency to close the deal so the next trilogue needs to make substantial progress in negotiations. Member States should not stand in the way of the compromise but instead agree to a robust regulation.

## 1. Post-Dieselgate testing reform

The Dieselgate scandal has implicated most carmakers leading to at least 37 million dirty cars and vans on EU roads that significantly breach emissions limits. As a result, the Commission proposed to reform the type approval and market surveillance regulation (TAFR). After both the European Parliament and Council of Ministers agreed their amendments in spring 2017, the final negotiations (or trilogues) are currently ongoing between the three institutions.

The negotiations are taking place against a background of continuing inaction by national governments to clean up dirty diesels or punish wrongdoing. Just a tiny fraction of the 37 million grossly polluting diesel cars and vans across Europe have been recalled, mainly on a voluntary basis, illustrating the need for a strengthened regulatory framework. The last (currently planned) meeting is scheduled for 23 November. The Estonian Presidency of the EU is determined to reach an agreement on the key issues by the end of this year, after which a formal sign off can take place under the Bulgarian Presidency at the beginning of 2018. This briefing summarises the key issues currently under discussion and the outcomes that will deliver a robust, transparent and independent system that would prevent a Dieselgate2 type future scandals. This would enshrine a culture change in both carmakers and national regulators that ensures rules are respected, not circumvented.

## 2. Key issues

### 2.1. EU oversight

Dieselgate has exposed a system of approving cars that had been captured by the carmaker, where testing regulators are paid directly by the industry and reduced to watching tests performed in manufacturers' own labs. 28 national regulators compete for the business of approving cars and operate a minimal system of checks that amounted to turning a blind eye to the manipulation of emission rules such as switching off emission controls on the road. No one checked how cars really perform or whether the ban on defeat devices was being applied correctly. To discourage excessively light touch regulation going forward two key changes are essential:

1. **The Commission must** be empowered to **check some vehicles in use** to ensure they comply with emissions, safety and all other rules when on the road. T&E understands this is already part of the compromises agreed by the three institutions
2. **The Commission must** also **regularly review the work of national type approval and market surveillance authorities**. This is the bare minimum necessary to ensure national regulators apply the laws consistently, rigorously and impartially. There has to be a behavioral change within a system to ensure inappropriate approval decisions can be identified and, where appropriate, corrected or penalised. Only an independent EU eye can push such a change in regulatory culture, so the Parliament must stay firm on its demands for regular reviews and sanctions for wrongdoing.

### 2.2. Checking real cars in the real world

Sharply exposed by the Parliament's enquiry into the diesel emissions scandal (EMIS), member states have been shown to have failed to check how cars, vans and trucks perform on the road, despite having powers and obligations to do so. All three institutions accept there has been past failings, but the proposals to strengthen the rules differ in ambition. Parliament wants to see an ambitious annual target for vehicles to be checked by market surveillance authorities, with each car checked consistently for all EU rules and requirements. Member states have proposed a lower ambition with individual test categories which would allow member states to cherry pick which tests to carry out thus significantly weakening the market surveillance rules. According to Council's amendments, a mere check of the vehicle plates or CE marking would qualify as "market surveillance". T&E suggests that

- The Council's level of ambition (**1 in 50,000 vehicles**) checks can only be appropriate if "1" means **checking a vehicle for all EU requirements**; there should be no cherry picking of what is checked
- A de-minimis exemption for the member states with few vehicle registrations could apply to help the member states without the infrastructure to undertake checks. The de-minimis level could be as high as 100,000 cars.

### 2.3. Be transparent

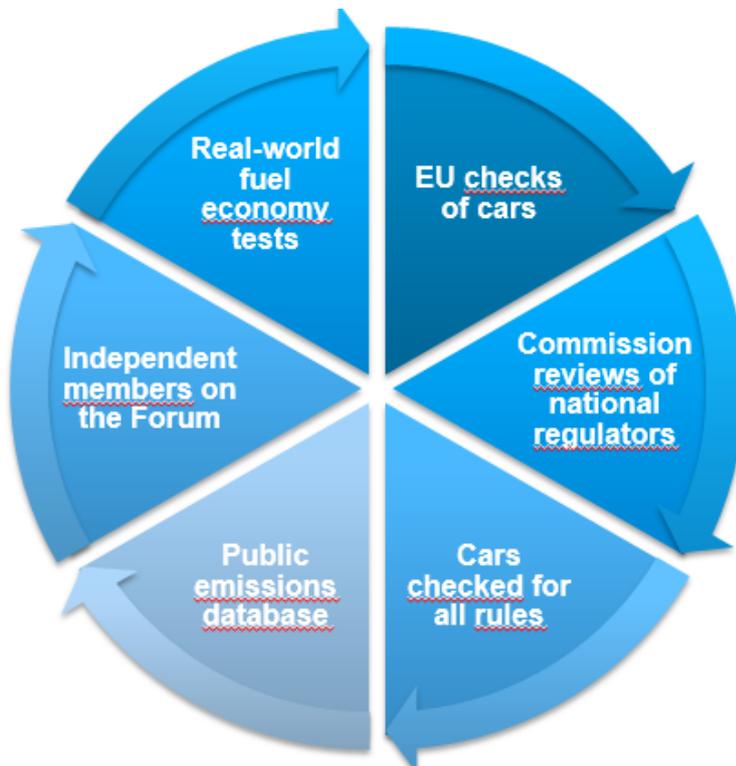
Today's type approval system is shrouded in secrecy with third parties even being prevented from knowing which vehicle (or often its separate parts) were approved where and by whom, or what the individual vehicle's performance or emissions results are. Parliament has made several good proposals to improve the current system that should be part of the final deal:

1. There should be **independent members on the new Forum** present in discussions between national authorities and the Commission. An independent member will make the Forum more credible and ensure its decisions follow due process. The car industry and car approval system has been discredited by Dieselgate, so independent members will help to rebuild trust and provide accountability. In their absence stakeholders will continue to ask "what is being hidden?"
2. There must be an **open source online database with key data on vehicle tests and emission results**, including key test parameters to verify correctness of original homologation tests.

## 2.4. Better tests

The Commission proposals include possibility to **develop better tests for CO2 and fuel efficiency** that are more representative and tackle in-use emissions. The Council, hiding behind legal arguments, has inexplicably deleted any possibility for such tests to be introduced. The Commission and the Parliament should stay firm and ensure this provision makes it to the final law. It is unacceptable that just as better on-road tests are introduced for air pollution, consumers and drivers are denied better real-world fuel economy performance.

## 3. Conclusions



The fall-out from Dieseldgate exposed an entirely ineffective car approval system operating such light-touch regulation that the car industry no longer feels its presence. As a consequence the industry developed a shameful culture to circumvent or break regulations as they knew they could get away with it. The more recent allegations of the Diesel cartel suggest this willingness to break the rules goes much further than just emissions.

In the absence of a single independent EU-Agency the reformed approval system must deliver a consistent and high level of enforcement that creates a culture change in which testing services and Type Approval Authorities operate in the public interest and not trying to preserve business relationships with the industry. Enforcement of the single

market rules and public health of consumers must always be put above the commercial interests of manufacturers.

The legislators have spent the last two years working on the post-Dieseldgate framework - it is time to make progress and agree the new law. Member states must show they are serious about improving the system instead of blocking the reforms and defending the status quo. The **third trilogue must deliver substantial progress so the Estonian Presidency has the momentum to organize a 4<sup>th</sup> and final meeting to close the deal**. What a better Christmas present for EU citizens than saving thousands of premature deaths and millions of active days lost currently by simply enforcing the rules effectively.

## Further information

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