

Dear Ministers, Dear Commissioner,

At the upcoming Transport, Telecoms and Energy (TTE) Council on 6 and 7 June, you are expected to exchange views on the NO_x emissions from diesel cars and the response of Member States and the European Commission to the developments and research findings with regard to the emission control strategies of vehicle manufacturers.

As representatives of the European Parliament's Inquiry Committee into Emission Measurements in the Automotive Sector (EMIS), we welcome the ongoing investigations at a national level and the increasing exchange of information between Member States. However, we are extremely concerned about the current lack of responsiveness and coordination with regard to the enforcement of the provisions in Article 5 of Regulation (EC) 715/2007 and other relevant vehicle approval regulations.

Following written and oral evidence provided to the EMIS Committee and reports published by several Member State authorities, it is apparent that a number of car manufacturers are switching off essential parts of emissions control systems in vehicles under a broad range of normal operating conditions. As you are aware, such switch-off devices are in principle prohibited; their use is only allowed in case it is necessary to protect the engine against damage or accident and to guarantee safe operation of the vehicle (Regulation (EC) 715/2007, Article 5). Moreover, UN/ECE Regulation No. 83 stipulates that manufacturers shall ensure that an emission control system retains its emission control function during all ambient conditions, especially at low ambient temperatures.

Research done following the VW scandalⁱ has revealed that car makers are switching off, or reducing, the EGR at certain ambient temperatures (under 10°C and 17°C and over 35°C) or switching off after-treatment equipment after warm engine restart or after a certain driving time (in one case after 22 minutes). However, the NEDC laboratory test only tests cars at temperatures between 20°C and 30°C and for a duration of 20 minutes.

During the EMIS hearings we have heard from both the Association for Emission Control by Catalyst (AECC) and the Netherlands Organisation for Applied Scientific Research (TNO) that after-treatment technologies (Lean NO_x Trap, LNT, and Selective Catalytic Reduction, SCR) can work effectively under all ambient temperatures and that there is no technical justification to reduce the use of LNT and SRC in order to protect the engine.

According to TNO, a switch off of Exhaust Gas Recirculation (EGR) could be justified by the need to avoid engine damage caused by condensation at low temperatures. However, TNO outlined that proper calibration of the EGR system would limit EGR only when the engine is cold and restore its use as soon as the engine warms up. Moreover, changes in vehicle systems could enable the use of engine heat to prevent condensation.

In this context, a strong case can be made that the aforementioned emission control strategies are unjustifiable from a technical and engineering perspective and constitute a violation of Article 5 of Regulation (EC) 715/2007. We therefore call on the European Commission and the Ministers for a prompt, robust and harmonised response.

Firstly, the Ministers responsible for Type Approval Authorities and Market Surveillance Authorities must collect all necessary information from manufacturers, in particular on EGR systems and their functioning on low temperatures. In this regard, 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. The initial results following the national investigations in France, Germany and the UK should form the basis of a wider testing and information collection exercise to assess to what emission control strategies have been used by car manufacturers.

Secondly, the relevant EU regulations must be applied in a strict and harmonised manner across Member States, with a common approach on which design elements must be considered defeat devices, as set out in Regulation (EC) 715/2007 Article 3. In cases where the rules with regard to the use defeat devices have been breached, or where manufactures have failed to provide information, type approvals must be withdrawn immediately and mandatory recalls must be initiated. Penalties must be issued to manufacturers in breach.

Ministers, Commissioners - a full and EU-wide application of the legislation is critical to ensure legal certainty for both consumers and manufacturers and securing fair competition in the common market. Importantly, the air quality for European citizens and the rule of law are at stake.

We hope that you will take these proposals and considerations into account in your exchange of views.

Yours sincerely,

Seb Dance MEP

A handwritten signature in black ink, appearing to be 'Seb Dance', written in a cursive style.

ⁱ <http://www.theicct.org/blogs/staff/emissions-test-defeat-device-problem-europe-not-about-vw>