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22 November 2016

Re: Type approval and market surveillance requires fundamental reform

Dear Deputy Permanent Representative,

I am writing on behalf of BEUC, the European Consumer Organisation, ahead of the Competitiveness Council taking place on November 28-29. The reason for this letter concerns the Commission's Proposal on type approval and market surveillance of passenger cars. The Proposal is a big step in the right direction as it would apply strong safeguards to protect consumers but we fear it is at risk of being watered down in such a way that EU vehicle testing and market surveillance will not restore consumer trust in the automotive sector.

We want a European type approval and market surveillance system that works for consumers. There are numerous issues with the existing system that need to be addressed (please see our position paper attached to this letter for a full list of recommendations) but below I highlight the key checks and balances that should ensure vehicle testing is improved and that a future dieselgate scandal is avoided:

EU level assistance for market surveillance activities

- Currently, it is clear that **not all Member States have the same level of capacity** for conducting market surveillance activities. This is one reason for why it is essential that an EU body has the opportunity to conduct market surveillance activities when it considers it appropriate.
- Secondly, and to avoid any potential conflicts of interest at national level, it is essential that the **EU body which carries out market surveillance activities is independent in its decision making**. Of course, in order to avoid unnecessary testing, it is important that the EU body liaises with Member States through the proposed Forum, considers consumer complaints and conducts rigorous risk assessments. But it is crucial that the EU body ultimately has the final say on which car they deem is appropriate for testing (be it brand new or already on the road).
- Furthermore, we expect quantitative targets to be set with regard to the spot checks on post productions vehicles (i.e. minimum of 15% of new models per annum) and vehicles already on the road (i.e. minimum of 150 tests per annum). Such targets should be a **shared responsibility** between Member States and the Commission.

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Oversight of national vehicle testing

- To avoid any potential conflict of interest at the national level and to ensure that the final Regulation and related legislation (i.e. emissions testing) are being applied on a level playing field, **assessments need to be made on a regular basis of national authorities and private technical services**. The results of such assessments need to be made publically available and be conducted in an independent manner so as to ensure that lessons can be learnt and where problems are discovered, that remedial actions are taken. In addition, the **Forum for type approval and market surveillance should be fully transparent** (i.e. allow for all test data and reports to be publically accessible and involve external observer groups including consumer organisations).

Payments for vehicle testing

- It is essential that any potential conflict of interest between technical services, be they public or privately run, and automotive manufacturers is eliminated. For this purpose, it is essential that **technical services do not levy fees directly on car makers for the purpose of type approval testing**. If fees are demanded from car makers for this purpose, then the Member State authority should collect them and pay the technical service directly for their work. For market surveillance activities, there are different options available for Member States to cover their costs but it is essential again that no direct payments are made between car makers and technical services.
- Secondly, and again to avoid any conflict of interest between car makers and technical services, the **Member State authority should be responsible for choosing the technical service** for carrying out testing. Furthermore, the technical service responsible for conducting market surveillance tests on a specific vehicle must be different to the technical service who conducted the original type approval testing.

Finally, I would like to reiterate the importance of this topic for consumers: The ongoing emissions scandal has highlighted numerous weaknesses in the European type approval and market surveillance regime. To avoid another automotive scandal, it is essential that the EU addresses these weaknesses, puts national interests aside and gives a clear signal that restoring consumer confidence is its primary aim.

Yours sincerely,

Monique Goyens
Director General

Please note that this letter will be made publically available and shared with the European Commission and European Parliament.