

Subject: Review of the Real Driving Emissions test: Remove the conformity factor

Dear Member of the ENVI Committee,

On behalf of BEUC, the European Consumer Organisation, I write to you about the European Commission's plan to reintroduce a so-called 'conformity factor' in the ongoing revision of the rules for Real Driving Emissions (RDE) tests. This factor is problematic as it allows diesel vehicles to emit two times more air pollutants (NOx) than what the law (Euro 6 regulation) stipulates.

In its December 2018 ruling, the Court of Justice of the European Union concluded that the conformity factor was illegal. According to the Court, the Commission went beyond its competences by amending an "essential element" of the Euro regulation through a delegated act¹.

The Court's conclusion is very much in line with the position expressed by BEUC back when the delegated act was under scrutiny in December 2015: at the time, we had written "the agreement also exceeds the implementing powers of both the Commission and Member States, as it represents a political decision to increase the agreed limits for diesel NOx emissions - EU limits that were adopted in 2007 through democratic due [co-decision] process, with the agreement of the European Parliament"².

The European Commission decided to appeal the Court's decision and to publish a new legislative proposal re-introducing the conformity factor through an ordinary legislative procedure.

For the sake of our health and to restore trust amongst those affected by the Dieselgate scandal, we call upon the European Parliament and Member States to remove this conformity factor entirely. All diesel vehicles on the market must always respect the Euro 6 legislation.

Exhaust emissions from diesel vehicles largely contribute to lung diseases and more than 400,000 annual premature deaths in Europe are linked to air pollution. They are also directly responsible for dozens of billions of Euros spent each year in healthcare costs borne by governments and compulsory insurances³. Exposure to poor air quality is not limited to pedestrians and cyclists. As our Spanish member OCU recently demonstrated, car drivers are also impacted by air pollution from road traffic as they inhale large quantities of pollutants emitted from vehicles whilst on the road⁴.

The decision to use a conformity factor was always unjustified. First of all, a law exists to be abided by. Secondly, car makers' own practice illustrates the factor is not needed. Their data shows the

¹ <https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-12/cp180198en.pdf>

² https://www.beuc.eu/publications/beuc-x-2015-122_mgo_real_driving_emissions_nox_limits.pdf

³ <https://epha.org/wp-content/uploads/2018/11/embargoed-until-27-november-00-01-am-cet-time-ce-delft-4r30-health-impacts-costs-diesel-emissions-eu-def.pdf>

⁴ <https://www.ocu.org/organizacion/prensa/notas-de-prensa/2019/calidaddelaware050919>

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vast majority of new diesel vehicles put on the road already comply with the legal limit of 80 mg of NOx/km under an RDE test. At a time when the European Commission's Green New Deal is expected to step up efforts towards a more sustainable and 'zero-pollution' Europe, it is essential to send a signal that each new relevant piece of legislation will contribute to this future.

It is also high time the EU shows people it has learnt from the 2015 Dieselgate scandal. Let's not forget that today millions of affected consumers in Europe are still waiting for compensation⁵. Although not directly related, the revision of the RDE tests is an opportunity to send a strong signal that the EU deals seriously with industry malpractice. And that it can finally complete the legislative changes that are needed on top of the already adopted legislation (reform of the type-approval regulation, adoption of new test cycles and new CO2 emissions targets).

Yours sincerely,

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Director General

⁵ https://www.beuc.eu/publications/beuc-x-2019-050_report_-_four_years_after_the_dieselgate_scandal.pdf