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The Director-General

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**NOTE FOR THE ATTENTION OF
MR DANIEL CALLEJA CRESPO, DIRECTOR GENERAL, ENTERPRISE AND INDUSTRY**

**Subject: Implementation of Euro 6, Real Driving Emissions (RDE): DG ENTR
draft note of 24.04.12**

As you are aware, there are very substantial exceedences across the EU of the NO₂ annual limit value of the Ambient Air Quality Directive 2008/50/EC. 18 Member States have applied for an extension until 2015 at the latest of the deadline for compliance with the limit value, and 10 of those, including some of the largest Member States, have indicated that there is little prospect of compliance over the whole territory before 2020 or in some cases 2025. In addition, 12 Member States are in exceedence of the NO_x ceilings established for 2010 under Directive 2001/81/EC. This last has been a major obstacle to the negotiation of 2020 ceilings for NO_x in the revision of the UNECE Gothenburg Protocol and will continue to threaten ratification of the revision once adopted.

By far the most significant cause of these exceedences attributed by the Member States is the failure of the Euro legislation to limit real-world emissions of NO₂ from diesel vehicles to the values specified in the Euro norms. Analysis by the JRC has calculated real-world emissions from Euro 5 vehicles in the region of five times the limit value on average in spite of the legislation requiring that type approval limit values are to be attained under "normal driving" conditions.¹ In the international negotiations the clear link between the EU's failure to honour its international obligations and the egregious failure of this particular domestic emission control has undermined the standing of EU standards internationally whilst creating significant problems in the ongoing negotiations on amending the Gothenburg Protocol.

¹ Analysing on-road emissions of light duty vehicles with PEMS. Martin Weiss, Pierre Bonnel et al. JRC 2011 (EUR 24697)

This situation which is clearly problematic must be resolved. The Commission has so far argued that the implementation of Euro 6 would resolve the situation to a large extent and that its implementation would be pursued soonest in the 2013-2014 timeframe. The Commission has previously also recognized the need to tighten the legislation to avoid the "real world emission" problem and, in the context of the Communication² on clean and energy efficient vehicles, announced it would do so around the same time through improved test cycles or equivalent measures.

Meanwhile we are receiving queries from Member States on the so called "regulatory moratorium" announced by Mr Tajani reported in the press for which it remains unclear to what extent this is to be considered a Commission position.

In this context, DG ENV is extremely concerned by the proposals made in a recently received draft note referred to above. The note cannot be issued externally as it stands, for the following reasons:

1. Section 2: Definition of regulatory RDE not-to-exceed (NTE) limits

Points 3 and 4 are unacceptable. Introduction of RDE conditions constitutes implementation of Regulation 715/2007 and is governed entirely by its provisions. Compliance factors/NTE limits should be defined so as to ensure conformity in normal conditions of use with the limit values established in the Regulation, using appropriate statistical methods to account for the variance in RDE test results. There is no legal scope for consideration of the air quality limit values either to strengthen or to weaken the constraints imposed by the Regulation. Cost-benefit analysis of the limit values established in the Regulation was carried out at the time of its proposal and no further analysis is required.

2. Section 3: Regulatory implementation

The timetable outlined in Section 3.1, proposing application of RDE controls with NTE limits for type approval only in 2017/18, is unacceptable and goes against previously agreed positions which cannot be changed unilaterally given its impact on the EU's environmental acquis. In the context of the air quality and transport emission problems generated by the failure of the Euro controls, a five-year lead-time between establishment of the procedure and its application for type approval is indefensible. The lead time for application of RDE for heavy duty was 20 months, and previous generations of Euro standards had application times of 3 years.

The proposal outlined in Section 3.2 is unacceptable in its entirety. On this basis, there would be no requirement at any time to apply Euro 6 standards in real world driving conditions for type approval purposes. This is contrary to the intention of the legislators.

² COM/2010/0186

Conclusion

The failure of the Euro standards is the direct cause of major compliance problems with EU ambient air quality legislation and its human health related standards. In that context, the financial crisis cannot be adduced in support of continued failure properly to implement the Euro legislation not least because there is no convincing case that the competitiveness of the EU industry is at stake.

I propose that we meet urgently to discuss this issue.


Karl Falkenberg

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