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ACEA Position Paper Approval and Market Surveillance of Motor Vehicles and Their Trailers

APRIL 2016



EXECUTIVE SUMMARY

Following the 2013 'fitness check' of the European type approval system, the European Commission revised the framework and published its proposal for a new Framework Regulation on 27 January 2016. The proposal aims to overcome deficiencies, such as differences in interpretation and stringency in application of the requirements across Member States, which became clear after several irregularities occurred over the last years. These irregularities have led to a certain loss of confidence in automotive industry processes and criticism of the systems, mainly regarding:

- Different interpretations between type-approval authorities (TAA).
- Authorities not acting fast when irregularities were communicated (eg by NGOs).
- Allegations that new-vehicle types were qualified as existing types, as well as differing opinions between various TAAs on this issue.

In order to regain robustness and assure a uniform application of the type-approval system, the Commission has proposed new measures to address the above mentioned problems:

- Introduction of a national fee to guarantee independence of national authorities and technical services from automobile manufacturers.
- Improved market surveillance.
- Strict procedures for dealing with non-conformities and different interpretations.
- Restriction of validity of type-approval certificates to five years.

The European Automobile Manufacturers' Association (ACEA) fully supports this review as well as the Commission's objectives. However, in the spirit of better regulation and in order to improve efficiency as well as to safeguard future improvements to the process, five aspects should be considered by the Commission when implementing the regulation:

- Implement a fair and transparent solution to conduct and finance market surveillance.
- Avoid potential disruptive measures when addressing 'non-critical' non-conformities.
- Ensure a workable, robust and trustworthy process for type-approval testing.
- Establish simple administrative procedures regarding the renewal of certificates after five years.
- Establish an effective, harmonised scheme for the registration of end-of-series vehicles.



INTRODUCTION

In 2013, the European Commission carried out an extensive and in-depth evaluation (a so-called 'fitness check') of the vehicle type-approval legal framework. The evaluation confirmed that the framework had several merits including: harmonisation of practices, effective operation of the internal market and fair competition. It also recognised that differences in interpretation and strictness in application of the requirements across Member States were reducing the effectiveness of the framework.

On 27 January 2016, the European Commission published a proposal to replace the current framework (Directive 2007/46/EC) with the Regulation of the European Parliament and of the Council on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (COM(2016) 31/2 2016/0014 (COD)). With this new proposal the Commission aims at:

- Complementing type-approval requirements by market surveillance requirements.
- Correcting existing weaknesses of the system.
- Harmonising existing procedures.
- Reinforcing the European Commission's prerogatives in term of type-approval procedures and market surveillance.

The European Automobile Manufacturers' Association (ACEA) is ready to explore all options for improving the current system of type approval and will continue to contribute constructively to the on-going discussions. Improvements to the system could strengthen the internal market and enhance the safety and environmental performance of motor vehicles. ACEA believes that what is already in place should not be simply removed, but rather should be carefully examined to see where and how it can be improved.

ACEA'S SUGGESTIONS

Market surveillance

Conducting market surveillance

Market surveillance ensures that products on the market are safe and in conformity with the



applicable regulations. Until now, the Type Approval Framework Directive did not contain specific provisions on market surveillance. However, the control of in-service product specification conformity was subject to a range of mechanisms, including the Conformity of Production (CoP). The introduction of specific market surveillance measures is intended to improve consumer trust.

While accepting the introduction of market surveillance provisions, ACEA would like to emphasise the importance of keeping the system streamlined and efficient. Increasing the number of mechanisms linking market surveillance authorities, type-approval authorities, manufacturers and economic operators, risks making the system overcomplex and too bureaucratic. It is important that there remains a single point of contact throughout the entire process.

ACEA therefore proposes that the type-approval authority which granted the approval should remain the main interlocutor for market surveillance authorities and manufacturers or their representatives:

- To obtain the necessary information to carry out surveillance activities as long as the information is contained in type approvals.
- To discuss alleged irregularities and take appropriate measures to correct them when they are confirmed. For such discussions, it is important to directly involve manufacturers or their representatives since importers and distributors do not always have the necessary expertise.

Moreover, to carry out inspections and tests, both market surveillance authorities and the European Commission should as a general rule purchase or lease any vehicle or hardware (eg tyres, vehicle components or systems, etc) on the market, at their own expense, to guarantee the independence and the representativeness of the sample tested, as is currently already done in the United States and South Korea.

Financing market surveillance

ACEA notes that the proposed scheme seeks to finance the cost of market surveillance via type-approval fees. This may lead to distortions of the level playing field, because both the level of market surveillance activity and the number of type approvals processed can vary greatly among member states and there is no reason to expect that these completely different activities would

correlate with each other. For example, member states which currently do not process type approvals are still obliged to perform market surveillance activities. For this reason, ACEA proposes to develop a scheme that fairly distributes costs across member states, but also provides budgetary predictability for vehicle manufacturers. To ensure the principle of proportionality, market surveillance financing should not be tied to type-approval activities in each member state.

Handling of non-conformities

The Commission proposal aims to introduce very restrictive procedures to deal with non-conformities, eg automatic termination of sales by importers. When considering such measures, the following elements should be taken into consideration:

- There should be a clear distinction between situations of serious risk and other non-conformities. Immediate and unilateral measures are only justified in situations of serious risk.
- In other situations of supposed or factual non-conformity, ACEA proposes that these should be discussed between the national authority claiming the non-conformity, the type-approval authority which issued the approval and the manufacturer concerned. Once the non-conformity has been confirmed, the authorities can decide on appropriate measures and solutions.
- Importers and distributors generally do not have the expertise to judge on the existence of serious risks or non-conformities without consulting the manufacturer. Therefore, they should not be responsible for deciding whether to stop placing products on the market. Clearly, they must be obliged to report supposed or factual non-conformities and to execute the measures developed as part of the resolution process (described in the previous point).
- Especially in the case of non-conformities that concern simple documentation errors, without any safety or environmental impact, strict measures such as an immediate sales ban are not appropriate as they simply are out of proportion.

Efficient improvement of the type-approval system

Conduct and financing of type-approval procedures

Recently, manufacturers have been accused of being too close to type-approval authorities and



technical services. Hence, calls have been made to strengthen the independence of these bodies, in particular by putting an end to their perceived financial dependence on manufacturers. To that end, the European Commission now proposes the introduction of a national fee covering:

- Cost of type-approval authority (status quo);
- Cost of technical service (new);
- Cost of market surveillance by the member state (new);
- Cost of market surveillance by the Commission (new).

ACEA supports provisions to guarantee the independence of type-approval authorities and technical services. Manufacturers are also in favour of reinforcing the accreditation procedures for in-house testings (it is current practice that type-approval tests are performed in a laboratory of the respective vehicle manufacturer, but under supervision of a technical service). However, ACEA also stresses that the availability, quality and efficiency of the facilities used for type approval testing offered by the technical services and suppliers (providing third-party tests) should be preserved.

The current proposal could practically eliminate the competition between technical services and thus remove any incentive for them to work as effectively as possible. It should be noted that some aspects of type approval (eg safety of electronic control systems, OBD, etc) require a particularly high level of expertise of the technical service, and that few experts have in-depth knowledge about how such solutions are implemented at the individual manufacturer level. Newly-assigned technical services would have to go through lengthy learning processes for these special cases with obvious effects on the duration and cost of type-approval procedures.

Free choice of technical service for type approval is paramount to maintain a functioning system and to avoid distorting competition between EU and non-EU countries.

As explained above, ACEA also opposes a financing scheme for market surveillance on a purely national basis.

Control and audit processes for technical services and type-approval authorities

Automobile manufacturers welcome measures which seek to guarantee the robustness of the EU type-approval system. In order to ensure an efficient implementation, ACEA suggests that:



- The possibility to perform tests in third-party laboratories should be maintained, in order to overcome laboratory capacity shortages.
- Certificates rightfully issued on the basis of inspection and test reports by a technical service should remain valid in case of a suspension of that technical service.

Harmonisation of existing procedures

Termination of the validity of a type approval

The European Commission proposes to introduce a new element to the type-approval framework: the termination of the validity of the type approval. After a five-year period, the validity of the European type approval would be assessed, with the possibility of renewal for a further period of time. The purpose of this renewal process is to verify whether a type is affected by new legal requirements which may have entered into force in the meantime and, if so, whether the vehicle type actually complies with these requirements.

ACEA acknowledges the benefit of such a verification in the case of whole vehicles, but suggests not to apply this concept to systems and components, because the sheer number of approvals (each whole vehicle type approval may contain roughly 60 to 400 approvals for systems and components) would create too much administrative burden. In order to prevent disruption of production it should be possible to bring the validity check forward from the required maximum period, at the request of the manufacturer.

Conflicts with type-approval principles under the UNECE 58 Agreement, and in particular with the established transitional provisions, should be avoided.

End-of-series provisions

End-of-series provisions deal with situations in which a vehicle has been produced in full conformity with applicable Regulations, but new requirements entered into force afterwards which prevent it from being registered in the EU. ACEA welcomes the introduction of binding harmonised end-of-series provisions to replace the existing divergent national practices, which require individual action of manufacturers in many member states.



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However, the proposed restrictions specifying that registration would only be possible for a maximum of 12 months after the new requirements came into force, seem unnecessarily restrictive and would create a commercial risk for dealers, who would not be able to sell single vehicles which remained unsold at the end of that period. Similar restrictive provisions would negatively affect body builders in multi-stage manufacturing.

Furthermore, the proposal suggests identifying end-of-series vehicles via a specific entry in the Certificate of Conformity (CoC) document. This is not feasible because it cannot be known whether a vehicle will end up as an end-of-series vehicle at the time of production (nor is this known when the CoC is issued). ACEA fully supports the inclusion of the production date in the CoC and seeks the introduction of a harmonised IT-based tool that makes it possible to determine which Regulations an individual vehicle complies with. Such a tool would conveniently provide registration authorities with the necessary information to decide whether a vehicle can be registered or not.

EU individual vehicle and small series approval

ACEA supports the proposals made regarding individual vehicle and small series approval to provide flexibility for niche markets and SMEs without distorting the level playing field. The current system of national approval for individual vehicles does not allow for an easy transfer of a new vehicle from one market to another. The proposal would further support the internal market. For the same reason, ACEA supports the idea that the provisions for EU individual-vehicle and small-series approval are extended to additional commercial vehicle categories. Existing national schemes should be retained in parallel.

Other issues

Changes to the emissions Regulation (EC) No 715/2007 on Euro 6

ACEA strongly supports the Commission's efforts to develop and implement procedures that reduce the differences observed between real world fuel consumption and type-approval values. To that end, a new global test cycle – the Worldwide Harmonised Light Vehicles Test Procedure (WLTP) – has been developed. This is designed to represent more closely real-world driving and will be implemented in the EU in the near future. However, it is not reasonable to propose a provision, within the context of the review of the type-approval scheme, that type-approval values for CO₂ emissions should be representative of those met under diverse real driving conditions. The real



driving emissions provisions that have been developed and are currently being implemented are geared towards exhaust emissions but not towards CO₂ and fuel consumption, where the emission level depends strongly on the behaviour of individual drivers.

Update of the CoC and documentation

We strongly support the introduction of an electronic Certificate of Conformity and welcome the fact that the European Commission is proposing first steps to allow for this. In this context, we note that there are several on-going activities with the objective of creating electronic exchange platforms for type approval as well as registration data and documents. Some of these are EU-wide initiatives, while others are happening at the member state level, and finally there are also various initiatives under way in context of the 1958 UNECE agreement. Coordination of these projects by the Commission would be helpful to ensure that the various initiatives do not duplicate work and to make sure that the forthcoming IT-based tool can replace the burdensome handling of paper documents as soon as possible.

Repair and maintenance information (RMI)

ACEA generally welcomes the proposed concept to transfer existing RMI requirements into the framework regulation. This makes sense because the right for independent operators to access repair and maintenance information on a non-discriminatory basis applies to all technical information, not only to emissions-related information.

However, given that requirements in the emissions regulations for passenger cars (Euro 6) and commercial vehicles (Euro VI) differ in some respects, this must be also considered. For commercial vehicles (Euro VI), (EC) 595/2009 and UNECE Regulation 49 should be recognised as equivalent. This should be reflected in Annex IV of the proposed framework regulation.

ACEA also agrees with the Commission that no substantive changes to the existing provisions regarding this matter should be introduced at this stage. Such changes would be both inappropriate and premature.

The current proposal is about type approval and its objective is and should remain to make the type approval system more robust and effective.

Moreover the Commission is still in the process of reviewing the effectiveness of the provisions regarding access to repair and maintenance information. As required by the eCall Directive, the



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Commission is also currently investigating the necessity and feasibility of establishing a platform that would give independent operators wireless access to in-vehicle data. Amongst other things, it is analysing the potential implications that the establishment of such a platform would have for road safety, security, data protection and liability.

As long as the Commission has not completed this evaluation, drawn conclusions regarding necessary changes to the legislation and carried out an impact assessment, any changes to the existing provisions regarding access to repair and maintenance information are not supported.

CONCLUSION

Manufacturers, policymakers and consumers alike need a robust process to ensure that motor vehicles meet relevant standards. The European Commission's proposal goes a long way towards addressing the issues of market surveillance, improvement of the current system and its further harmonisation. ACEA welcomes the three key objectives of the Commission's approach and is making concrete suggestions to further strengthen the internal market in the most cost-effective manner and to safeguard the environmental and safety performance of motor vehicles.



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Explanatory Annex

WHAT IS TYPE APPROVAL?

European Community Whole Vehicle Type Approval (ECWVTA) is the process used to ensure that motor vehicles and their parts, intended to be placed on the market for consumers meet relevant environmental, safety and security standards. Type approval is imperative, given the large body of requirements that motor vehicles are subject to. During the process, vehicles representative of a 'vehicle type' (which is defined by common design characteristics), are tested to check their conformity with these standards.

These vehicle regulations are set by European Union law and in many cases refer to Regulations developed by the United Nations Economic Commission for Europe (UN-ECE) Working Party 29, under the 1958 Agreement. These regulations and directives cover virtually all aspects of vehicle design for most types of self-propelled road-based vehicles, as well as trailers. This includes requirements for vehicle systems such as braking, lighting, crash performance, and of emissions. Type-approval tests are carried out under the control of the type-approval authority or an authorised technical service.

To ensure a consistent approach, the methodology is outlined in EU Directive 2007/46/EC, also known as the 'Framework Directive on the type-approval of motor vehicles'. The Directive outlines and classifies the various applicable vehicle categories, and defines the relationship between EU legislation and UN-ECE Regulations. It is this Framework Directive that the European Commission has proposed to revise.

Component and system type approvals

A 'whole vehicle' is made up of large numbers of components and systems, each of which must conform to corresponding requirements. Vehicle manufacturers and suppliers of relevant parts must ensure that their products meet those requirements. Type approval makes a distinction between 'components' for vehicles – such as lighting components, glazing, rear view mirrors etc – and 'systems' for vehicles which determine compliance of many components together, such as for braking, steering, crash performance and emissions. In several cases, specific requirements have to be met at both the component (eg physical properties of vehicle glazing) and the system level (eg different minimum light transmission for windscreen and rear glazing). Obtaining type approval of components is typically the responsibility of the component manufacturer, whereas systems (including the installation of components in the vehicle) are handled by the vehicle manufacturer.



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Whole Vehicle Type Approval (WVTA)

Once all components and systems have been approved, a manufacturer can request approval of the Whole Vehicle Type. Upon submission of the relevant manufacturer's information document, including reference to the separate type approvals of all systems and components, a European WVTA Certificate will be issued by a type-approval authority. The manufacturer shall produce a Certificate of Conformity (CoC) for each vehicle manufactured in conformity with an approved type. A 'type' can best be described as a 'range' of vehicle models that share fundamental characteristics.

The type-approval system also allows for a multi stage approval procedure that applies when the vehicle is built up in more than one step (eg by a chassis manufacturer and a body builder). The European WVTA certificate of a vehicle type issued by the approval authority of one member state has to be accepted by all other European member states and allows for the registration of a new vehicle all over the EU.

Conformity of Production

Conformity of Production (CoP) is a vital part of the type-approval scheme. The manufacturer must bring evidence of its capacity to maintain compliance with the approved type, for each and every new vehicle manufactured during serial production. This ensures that quality standards are upheld when the vehicle is actually being produced in large numbers. While in principle the responsibility of the manufacturer, the type-approval authority is also obliged to verify that the manufacturer has implemented appropriate quality processes.



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ACEA's members are BMW Group, DAF Trucks, Daimler, Fiat Chrysler Automobiles, Ford of Europe, Hyundai Motor Europe, Iveco, Jaguar Land Rover, Opel Group, PSA Peugeot Citroën, Renault Group, Toyota Motor Europe, Volkswagen Group, Volvo Cars, Volvo Group. More information can be found on www.acea.be.

ABOUT THE EU AUTOMOBILE INDUSTRY

- Some 12.1 million people - or 5.6% of the EU employed population - work in the sector.
- The 3.1 million jobs in automotive manufacturing represent 10.4% of EU's manufacturing employment.
- Motor vehicles account for €396 billion in tax contribution in the EU15.
- The sector is also a key driver of knowledge and innovation, representing Europe's largest private contributor to R&D, with €41.5 billion invested annually.

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