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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	COMMISSION STAFF WORKING DOCUMENT Subsidiarity Grid Accompanying the document Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2019/631 as regards strengthening of the CO_2 emission performance standards for new cars and new light commercial vehicles in line with the Union's increased climate ambition

Delegations will find attached document SWD(2021) 188 final.

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COMMISSION STAFF WORKING DOCUMENT

Subsidiarity Grid

Accompanying the document

Proposal for a Regulation

of the European Parliament and of the Council amending Regulation (EU) 2019/631 as regards strengthening of the CO2 emission performance standards for new cars and new light commercial vehicles in line with the Union's increased climate ambition

{COM(2021) 556 final} - {SEC(2021) 556 final} - {SWD(2021) 613 final} - {SWD(2021) 614 final}

Subsidiarity Grid

1. Can the Union act? What is the legal basis and competence of the Unions' intended action?
1.1 Which article(s) of the Treaty are used to support the legislative proposal or policy initiative?
The legal basis for this proposal is Article 192 of the Treaty of the Functioning of the European Union (TFEU). In accordance with Article 191 and 192(1) TFEU, the European Union shall contribute to the pursuit, inter alia, of the following objectives: preserving, protecting and improving the quality of the environment; promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.
1.2 Is the Union competence represented by this Treaty article exclusive, shared or supporting in nature?
In the case of environment, the Union's competence is shared.
2. Subsidiarity Principle: Why should the EU act?
2.1 Does the proposal fulfil the procedural requirements of Protocol No. 2[1]: - Has there been a wide consultation before proposing the act? - Is there a detailed statement with qualitative and, where possible, quantitative indicators allowing an appraisal of whether the action can best be achieved at Union level?
The Commission organised an on-line public consultation between 13 November 2020 and 5 February 2021 on the EU Survey website aiming to gather opinions from citizens, organisations and industry stakeholders on the justifications, objectives, potential design and scope as well as impacts of the initiative. The inception impact assessment was open to public feedback on the Better Regulation Portal between 29 October and 26 November 2020. In addition, the Commission services engaged in extensive bilateral consultations with public authorities within the EU, as well as with business associations, social partners, individual companies and NGOs. Articles 191 to 193 of the TFEU confirm and specify EU competencies in the area of climate change. Climate change is a trans-boundary problem, which cannot be solved by national or local action alone. Coordination of climate action must be taken at European level and, where possible, at global level. EU action is justified on grounds of subsidiarity as set out in Article 5 of the Treaty of the European Union. Since 1992, the European Union has worked to develop joint solutions and drive forward global action to tackle climate change. More specifically, action at EU level will provide for cost effective delivery of the 2030 and long-term emission reduction objectives while ensuring fairness and environmental integrity. In light of the emission reduction target for 2030, and in the perspective of the climate neutrality objective to be achieved by 2050, stronger EU action is needed.

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016E/PRO/02&from=EN

The explanatory memorandum of the proposal and the impact assessment under chapter 3 contain sections on the principle of subsidiarity.

2.2 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the conformity with the principle of subsidiarity?

Both the explanatory memorandum and the accompanying impact assessment specify that climate change is a trans-boundary problem that cannot be effectively solved by national or local action alone. Coordination of climate action is necessary at EU level and, where possible, at global level, and EU action is justified on grounds of subsidiarity.

Although initiatives at the national, regional and local level can create synergies, alone they will not be sufficient. Lack of coordinated EU action via the strengthening of CO2 emission standards would translate into a risk of market fragmentation due to the diversity of national schemes, differing ambition levels and design parameters. On their own, individual Member States would also represent too small a market to achieve the same level of results, therefore, an EU wide approach is needed to drive industry level changes and to create economies of scale.

2.3 Based on the answers to the questions below, can the objectives of the proposed action be achieved sufficiently by the Member States acting alone (necessity for EU action)?

This proposal aims to contribute to the reduction of greenhouse gas emissions in the EU to achieve the updated target for 2030 and climate neutrality by 2050 by setting strengthened CO_2 emission performance standards for passenger cars and light commercial vehicles.

(a) Are there significant/appreciable transnational/cross-border aspects to the problems being tackled? Have these been quantified?

The problem tackled, i.e. climate change, is inherently of a transnational/cross-border nature.

(b) Would national action or the absence of the EU level action conflict with core objectives of the Treaty[2] or significantly damage the interests of other Member States?

National action could conflict with the core objectives of the Treaty, notably the objective set out in Article 32, which establishes in letter (c) 'the objective of avoiding distorting conditions of competitions within the custom union'.

Due to the diversity of national schemes, differing ambition levels and regulatory design parameters, national action could result in market fragmentation, with a risk of tailoring national legislation to suit local industry and increased compliance costs (passed on to consumers) for both component suppliers and vehicle manufacturers.

(c) To what extent do Member States have the ability or possibility to enact appropriate measures?

Member States have the ability and possibility to address CO_2 emissions from transport, notably through fiscal measures, and this may create synergies with the CO_2 emission standards. However, those measures would not be sufficient to tackle the problem, in particular for the longer-term and in a sufficiently coherent manner, taking into account the need to drive change at EU-wide level and

[2] https://europa.eu/european-union/about-eu/eu-in-brief_en

to create economies of scale.
(d) How does the problem and its causes (e.g. negative externalities, spill-over effects) vary across the national, regional and local levels of the EU?
The problem and its causes are present across national, regional and local levels throughout the EU.
(e) Is the problem widespread across the EU or limited to a few Member States?
The need to address climate change and reduce CO_2 emissions from road transport is widespread across the EU.
(f) Are Member States overstretched in achieving the objectives of the planned measure?
No, the measure is intended to support climate policy in the EU and the CO_2 emission standards notably support Member States in meeting their targets under the Effort Sharing Regulation.
(g) How do the views/preferred courses of action of national, regional and local authorities differ across the EU?
The policy instrument of setting CO_2 emission performance standards for new vehicles is recognized as a key tool for reducing CO_2 emissions from road transport.
2.4 Based on the answer to the questions below, can the objectives of the proposed action be better achieved at Union level by reason of scale or effects of that action (EU added value)?
Reducing greenhouse gas emissions is a trans-boundary issue that requires effective action at the largest possible scale. The CO_2 emission performance standards for cars and light commercial vehicles will tackle specifically the increasing CO_2 emissions from road transport. Acting at EU-wide level offers the opportunity to leverage the full potential of the internal market to create economies of scale.
(a) Are there clear benefits from EU level action?
Yes
(b) Are there economies of scale? Can the objectives be met more efficiently at EU level (larger benefits per unit cost)? Will the functioning of the internal market be improved?
Yes, the measure specifically aims at preventing market fragmentation and by driving change towards zero-emission mobility at EU-wide level, economies of scale can be achieved.
(c) What are the benefits in replacing different national policies and rules with a more homogenous policy approach?
The proposal is not replacing national policies, since it is an amendment of an existing Regulation. Coordinated EU action through the strengthening of CO_2 emission standards for cars and vans can catalyse the transformation of the automotive sector, and it can provide the entire automotive value chain with the necessary long-term, stable market signal and regulatory certainty needed to make the large capital investments that are necessary to deploy zero-emission vehicles on the market.
(d) Do the benefits of EU-level action outweigh the loss of competence of the Member States and the local and regional authorities (beyond the costs and benefits of acting at national, regional and local levels)?

Reducing greenhouse gas emissions is fundamentally a trans-boundary issue that requires effective action at the largest possible scale. The EU, as a supranational organisation is well-placed to establish effective climate policy in the EU. EU-level action in the form of CO_2 emission performance standards for cars and vans will also support Member States in meeting their targets under the Effort Sharing Regulation.

(e) Will there be improved legal clarity for those having to implement the legislation?

The proposal provides legal clarity for the automotive industry and sets a clear pathway for moving towards zero-emission mobility.

3.1 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the proportionality of the proposal and a statement allowing appraisal of the compliance of the proposal with the principle of proportionality?

Yes, the proposal complies with the proportionality principle because it does not go beyond what is necessary in order to achieve the Union's objectives of reducing greenhouse gas emissions in a cost-effective manner, while ensuring fairness and environmental integrity.

The Climate Law agreed by the European Parliament and the Council has endorsed an overall economy-wide and domestic reduction in greenhouse gas emissions of at least 55% below 1990 levels by 2030 and climate neutrality by 2050.

This proposal revises the existing CO_2 emission standards for cars and light commercial vehicles to contribute to the reduction of greenhouse gas emissions as part of a comprehensive package of coherent proposals with a view to reaching the overall climate objectives.

3.2 Based on the answers to the questions below and information available from any impact assessment, the explanatory memorandum or other sources, is the proposed action an appropriate way to achieve the intended objectives?

The proposed action builds on an existing and well-functioning policy that has demonstrated its ability to ensure reductions in CO_2 emissions from cars and light commercial vehicles.

(a) Is the initiative limited to those aspects that Member States cannot achieve satisfactorily on their own, and where the Union can do better?

Yes

(b) Is the form of Union action (choice of instrument) justified, as simple as possible, and coherent with the satisfactory achievement of, and ensuring compliance with the objectives pursued (e.g. choice between regulation, (framework) directive, recommendation, or alternative regulatory methods such as co-legislation, etc.)?

The proposal sets out amendments to an existing Regulation. This instrument is necessary in order to ensure direct applicability and enforcement throughout the EU of automotive manufacturers' obligation to meet their CO_2 emission targets.

(c) Does the Union action leave as much scope for national decision as possible while achieving

satisfactorily the objectives set? (e.g. is it possible to limit the European action to minimum standards or use a less stringent policy instrument or approach?)
Yes
(d) Does the initiative create financial or administrative cost for the Union, national governments, regional or local authorities, economic operators or citizens? Are these costs commensurate with the objective to be achieved?
Strengthening of the CO_2 emission targets is likely to increase investment costs for manufacturers and automotive component suppliers in research, development and market deployment of zero-emission technologies. For users of vehicles, the impact assessment shows the benefits in terms of total costs of ownership for consumers in particular through increased fuel cost savings.
(e) While respecting the Union law, have special circumstances applying in individual Member States been taken into account?
The CO_2 emission standards set targets to be complied with by the automotive industry operating across the Union.