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From: Presidency
To: Working Party on Technical Harmonisation (Motor vehicles)
Subject: UK comment on proposal to amend the light vehicle emissions type-approval regulation (715/2007)

Further detail to UK comment on proposal to amend the light vehicle emissions type-approval regulation (715/2007).

Article 1(7)(b) – replacing Article 10(4) & (5)

The Commission’s proposal does not align with the new vehicles date (i.e. the date when all newly registered vehicles must comply) previously adopted for vehicles of category N1 Class II & III and N2 (vans and light goods vehicles). This is counter to the Commission’s intention with the proposal to merely change the legislative instrument by which the conformity factors for compliance with the Real Driving Emissions (RDE) requirements are introduced in response to the General Court of the European Union’s ruling.

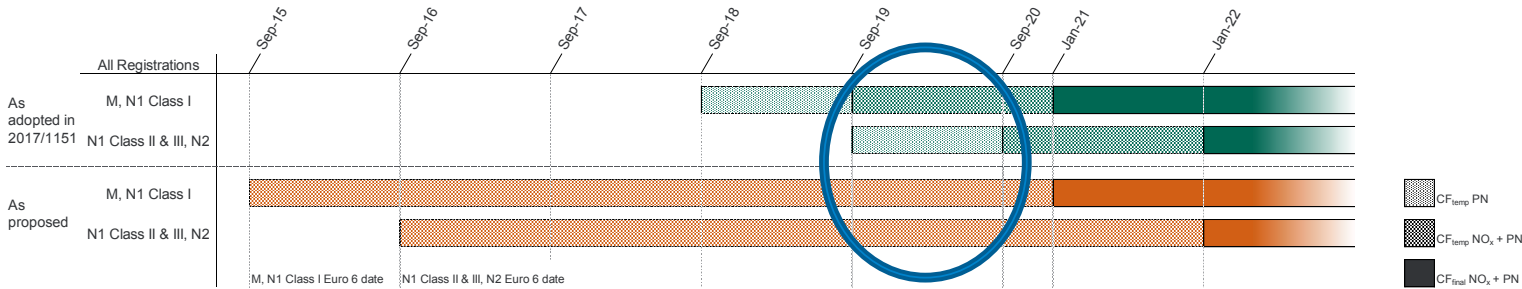
The proposal has done this by linking implementation dates of the Euro 6 limit values with the requirement to be compliant with a valid RDE test through the proposed text for Article 10(5) (and similarly for Article 10(4)):

With effect from 1 September 2015, and from 1 September 2016 in the case of category N1 class II and III and category N2 vehicles, national authorities shall, in the case of new vehicles which do not comply with this Regulation, and in particular with the Euro 6 limit values set out in Table 2 of Annex I, ...

The compliance with the Euro 6 limit values shall, during any valid RDE test, be determined by taking into account the pollutant-specific conformity factor set out in Table 2a of Annex I in accordance with the second subparagraph of Article 4(1).

The Euro 6 limit date became mandatory over 5 years ago and relate to the emission limits that need to be achieved in the laboratory. RDE requirements for on-road compliance came into effect later, from September 2017, with a phased introduction by using temporary and final conformity factors.

Since there is no date within the proposal that states when a valid RDE test can apply, given how the amendment has been drafted, the dates of compliance for the Euro 6 limits must now be taken as the dates for when RDE is applicable. As such it would significantly alter the compliance dates for RDE, however, it does not alter the dates for when the final conformity factors are mandated. Those provisions have been appropriately copied into the proposed amendment. This is highlighted in the chart below which shows when the RDE requirements are mandated for all new vehicles, both as was previously adopted and as it would be as a result of the proposed amendment.



As this amendment will come into force almost as soon as it is published, if that happens before September 2020, then it will specifically impact on N1 Class II & III and N2 category vehicles (as highlighted by the circle above). This is because vehicles for category N1 Class II & III and N2 are yet to have RDE fully mandated. At

present any new vehicle for those categories only have to comply with the RDE for Particle Number (PN), compliance with RDE NO_x has yet to be required (originally due to apply in September 2020). For all other categories (i.e. M and N1 Class I) the previously adopted dates, with at least compliance to the temporary conformity factors, have passed so would have no effect.

Whilst it could be argued that bringing forward the date by such means would be beneficial for air quality, it is unlikely to do so and, furthermore, be unduly disruptive to the industry given how short a timeframe is involved. Firstly, it would be at such a late stage that manufacturers would not be able to respond. The industry has struggled with laboratory and Approval Authority capacity to gain approvals to WLTP and RDE even for those vehicle categories already having to comply. So, they would be unlikely to bring approvals forward for those yet to be completed in response to an earlier date. Subsequently, there is only likely to be a very limited number RDE compliant vehicles available for categories N1 Class II & III and N2 given the congestion caused by such high type-approval demands and therefore limited stock to initiate the air quality change. Secondly, the stock that would suddenly be no longer compliant would still make its way onto the market through end-of-series derogations or other means as manufacturers are unlikely to simply scrap those vehicles.

This issue cannot be left to implementing legislation as it has been made clear by the General Court of the European Union that the application of the conformity factors has to be done through co-decision. This, in our opinion, includes the dates since there is no empowerment to differ the applicability of the conformity factors. Therefore, to give legal certainty and avoid ineffectual changes it is considered necessary to include text to enact the provisions from Article 15(4)(a) of Regulation (EU) 2017/1151 into Regulation (EC) 715/2007, along with the conformity factors.

Our suggestion for an additional footnote to the annex of the proposal, which is detailed below, emulates the text from those provisions. Delaying the application of a conformity factor for NO_x till September 2020 for new vehicle of category N1 Class II & III and N2 as was originally agreed in the Technical Committee – Motor Vehicles (TCMV) when Regulation (EU) 2017/1151 was adopted.

Proposed amendment

ANNEX

In Annex I to Regulation (EC) No 715/2007, the following Table 2a is inserted:

“Table 2a

Real Driving Emissions Conformity Factors

	Oxides of nitrogen (NO _x) ⁽⁴⁾	Number of particles (PN)	Carbon monoxide (CO) ⁽¹⁾	Total hydrocarbons (THC)	Combined hydrocarbons and oxides of nitrogen (THC + NO _x)
$CF_{pollutant-final}^{(2)}$	1,43	1,5	-	-	-
$CF_{pollutant-temp}^{(3)}$	2,1	1,5	-	-	-

⁽¹⁾ CO emissions shall be measured and recorded for all RDE tests.

⁽²⁾ $CF_{pollutant-final}$ is the conformity factor used to determine compliance with the Euro 6 emission limits by taking into account the technical uncertainties linked with the use of the Portable Emission Measurement Systems (PEMS).

⁽³⁾ $CF_{pollutant-temp}$ is the temporary conformity factor that may be used upon request of the manufacturer as an alternative to $CF_{pollutant-final}$ during a period of 5 years and 4 months following the dates specified in Article 10(4) and (5).

⁽⁴⁾ In the case of new vehicles, for 4 years after the dates specified in Article 10(5) compliance with the Euro 6 emission limits for NO_x during any valid RDE test in accordance with the second subparagraph of Article 4(1) shall not apply.”