

Further written evidence submitted by Mr Martyn Maynard (VTA0034)

Evidence To Transport Committee from MH Maynard Regarding Vehicle Type Approval and reported KBA position on legality of VW "Defeat Device"

1. This evidence is supplied by Martyn Maynard, owner of a 2014 VW Passat TDI
2. Further to my previous evidence, I read this in Auto Express this morning:-

"VW emissions cheat software does not break EU test laws"

<http://www.autoexpress.co.uk/volkswagen/92893/vw-emissions-scandal-recalls-compensation-is-your-car-affected-latest-news/page/0/1>

The article states:-

"A loophole in EU emissions regulation looks to have allowed VW to legally build cars with the software defeat device. As minutes from the 2012 meeting of the EU type approval authorities state: "The legislation does not clearly state the criteria by which the Type Approval authority may judge the validity of engine settings 'prescribed by the manufacturer' for the Type I test and there is a concern that, to give good emissions/fuel consumption results, a manufacturer could specify a special setting that is not normally used for everyday driving."

"A letter from VW UK's boss, Paul Willis, to the House of Commons Transport Committee confirmed by the KBA does not see the tech as cheating on EU tests. He said: "I would now like to share with you that we have just received confirmation that the KBA does not regard the use of this technology in the EU as problematic and thus as being in line with current legislation."

3. I have looked at the minutes referred to above. You can find them at:-

<http://www.dft.gov.uk/vca/additional/files/vehicle-type-approval/related-information/taam-minutes-april12.pdf>

Now clearly, I do not know if the above report is correct, and if the above "evidence" is the only evidence, however:-

The above statement *"a manufacturer could specify a special setting that is not normally used for everyday driving"* was made when discussing implications of vehicles that have multiple engine settings (economy, normal, sport which are normally driver selected). The committee were discussing which mode the vehicle should be tested in, and what mode the engine would drop into by default on start up.

The above statement *"a manufacturer could specify a special setting that is not normally used for everyday driving."* Is referring to the possibility that the manufactures could provide an "eco mode" and say that this button should be presses when performing the tests (or any other time

the driver wanted to drive clean). The discussion was not about the potential for manufacturers to surreptitiously introduce a clean mode during the test

The committee were **not discussing anything in the context of a defeat device**. They were discussing it in the context of “which mode we should test the vehicle in” i.e:-

QUESTION

What criteria should be used to agree the engine settings used for the Type I test?

Possibilities of solution

Comments

A	The vehicle manufacturer is completely free to select the setting to be used for the Type I test	This could mean that the test is conducted with a setting that is not normally used for everyday driving
B	The engine setting used for the Type 1 test should be the key-on default setting for the vehicle.	This helps to encourage the driver to use the most environmentally beneficial setting
C	If there is no default setting (e.g. at key-on the engine uses the setting that was in operation at the last key-off), then the emissions test should be tested in the setting that covers the worst case condition	

Furthermore, in coming to a conclusion, the committee agreed

Minutes from Geneva TAAM:

The general opinion of the meeting was that, for type approval purposes, emissions results should, in principle, represent the worst case. The UK delegation agreed to request its representative at the GRPE to raise this question for further guidance.

Pending the outcome of the GRPE discussions, the majority of the meeting was in favour of following Solutions B and C with the condition that, even when a default setting is available, the Approval Authority must still be satisfied that it represents a realistic in-use setting for the vehicle.

It should be noted that at least one delegation was in favour of only Solution C for all cases.

TAAM Minutes:

United Kingdom suggested to postpone the discussion to this topic to the next TAAM.

Thus it is clear that if the KBA’s decision is based solely on the above meeting minutes, the evidence and justification that the defeat device is “legal” is very slim indeed (if not non-existent!). I would have thought it would advisable to get an independent legal expert to advise if the defeat device is legal or not. Clearly the KBA are implicated and could be giving a biased view.

4. This does beg the question “what is the KBA doing to demonstrate that the proposed software implementation does not reduce vehicle reliability?” The fact that the KBA seems to take such a

relaxed view on what is and what is not legal, and appears to makes a judgement on such flimsy evidence, is cause for great concern.

5. As an aside however, it does appear that the UK is somewhat implicated in the lack of progress on the above agenda item.
 - a. The item was first raised in Slovakia in April 2012 when it was postponed, and the UK agreed to raise it with the GRPE
 - b. And again in Brussels Dec 2012, no action therefore postponed
 - c. And again in Luxemburg June 2013, no action therefore postponed
 - d. And again in Geneva Nov 2013, no action therefore postponed
 - e. And again in Lithuania in May 2014 agenda item dropped due to inaction by GB

6. Although the above shouldn't effect whether or not a defeat device is legal (because the agenda item isn't talking about defeat devices) I can see how the DfT could be embarrassed by the lack of progress made as a direct result of their inaction. The potential for loss of face must not deter the Transport Commission and the DfT from seeking out the truth?

7. Also whether or not the VW defeat device is legal or not, doesn't really worry me. In my eyes, all manufacturers are equally at fault. In all probability, the authorities are equally implicated. They all knew what they were doing was immoral, irrespective of what the legal experts come up with.

8. As you are aware, I am most interested in the potential reliability problems that could result as a direct result of introducing the upgraded software. The covering of backs, saving face, ticking of boxes, red herrings and wild goose chases all appear to be getting in the way of the truth and costing a fortune. Until the truth comes out everyone will suffer.

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