

April 2016

### Motor vehicles: New approval and market surveillance rules

*Impact Assessment (SWD (2016) 9, SWD (2016) 10 (Summary)) of a Commission proposal for a Regulation of the European Parliament and of the Council on the approval and market surveillance of motor vehicles and their trailers (COM (2016) 31)*

#### Background

This briefing seeks to provide an initial analysis of the strengths and weaknesses of the European Commission's [Impact Assessment](#) (IA) accompanying its proposal on the approval and market surveillance of motor vehicles and their trailers, adopted on 27 January 2016 and referred to Parliament's Committee on the **Internal Market and Consumer Protection (IMCO)**. The European Parliamentary Research Service (EPRS) has produced a [legislative briefing](#)<sup>1</sup> providing essential information on the proposal, its context and available analysis. The initiative is part of the Commission's response to the Volkswagen case of September 2015<sup>2</sup> which highlighted weaknesses in the implementation of type-approval rules for motor vehicles. In this respect, Parliament has urged the Commission and Member States to 'quickly restore the confidence of consumers through concrete actions' (Resolution of 27 October 2015 on [emission measurements in the automotive sector](#), point 4). The IA under review consists of two parts, of which the first received a positive opinion from the Commission's IA Board in March 2014 on condition that substantive improvements be made. The second part of the IA provides additional analysis largely as a result of the Volkswagen case.

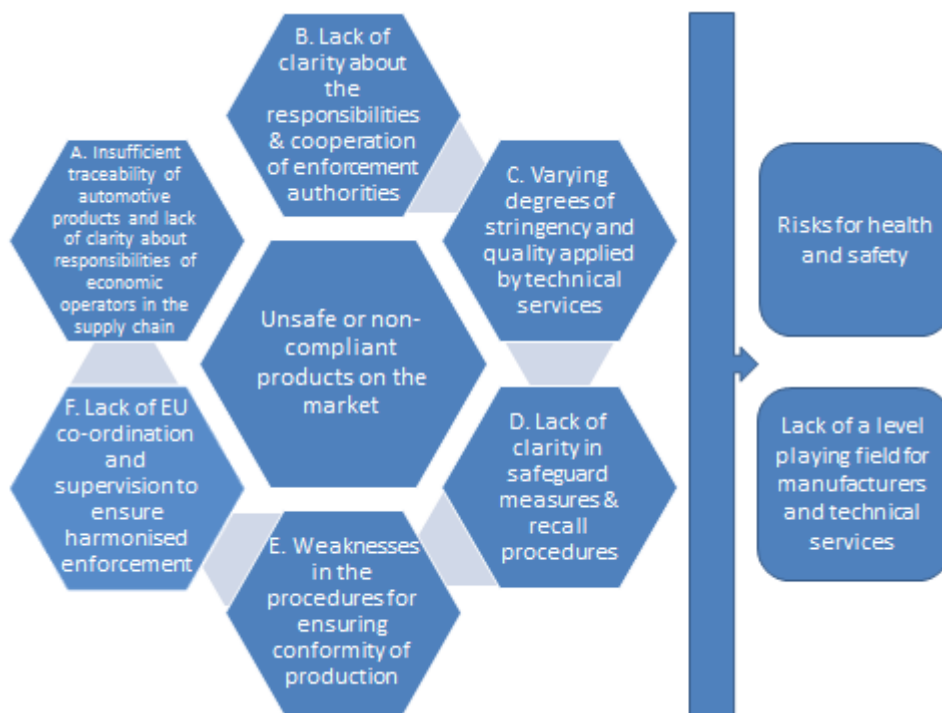
#### Problem definition

The IA describes the main problem to be addressed as being the presence of non-compliant or unsafe automotive products on the market, distinguishing between the two categories. Non-compliant products do not meet the relevant safety and environmental technical requirements of the type-approval legislation, whereas unsafe ones present a 'serious risk to road safety, public health or environmental protection' (IA, part 1, p. 19). The IA states that the exact proportion of non-compliant and unsafe products is unknown and that it varies according to the product; it also considers non-compliant products to be, to some extent, a subset of unsafe products. There is a shift in the second part of the IA to an identification of the problem as being the lack of *detection and prevention* of unsafe and non-compliant products. According to the overall IA analysis, the problem has six components, as graphically represented below (A to F). The expected consequences can be seen on the right-hand side.

<sup>1</sup> EPRS, EU Legislation in Progress, Motor vehicles: new approval and market surveillance rules, February 2016.

<sup>2</sup> Volkswagen had installed 'defeat devices' in at least 11 million of the diesel vehicles it has sold worldwide, including 8.5 million in the EU. A defeat device is a piece of software which identifies the moment when a vehicle is being tested and enhances the performance during the test in order to temporarily lower the emissions of nitrogen oxide (NOx), a major air pollutant.

**Graphic 1: problem, causes and consequences**



Source: IA; author's reworking

Focusing on the consequences, the Commission's IA devotes a rather limited space to analysing risks for health and safety. These environmental and social problems are briefly mentioned, but not extensively elaborated upon. The first part refers to 'road accidents and poor air quality, both resulting in harm to personal health' (IA, part 1, p. 22) and the additional analysis mentions 'very severe public health impacts' (IA, part 2, p. 13). However, the IA does not elaborate, for instance, upon specific issues such as 'lung cancer, asthma and many respiratory diseases... eutrophication and acidification', which were explicitly mentioned in Parliament's resolution of 27 October 2015. By contrast, as regards the description of the lack of a level playing field for economic operators, the additional analysis does address some of the weaknesses. For instance, the new data provided enables one to draw the conclusion that one third of type-approvals in the EU were issued by three Member States with limited or no motor vehicle output: Luxembourg, the Netherlands and Malta<sup>3</sup> (2004-2009 data).

Whether the IA manages to fully incorporate all the true causes of the problem into the analysis is questionable, and in its opinion in 2014 the IA Board had indeed singled this out as a weakness. The IA states that the problem areas A to E were identified by the Commission in consultation with the relevant Member State authorities responsible for the enforcement of the type-approval legislation (IA, part 1, p. 14). Problem area F is the result of the Volkswagen case. However, the additional analysis notices some causes which seem to go beyond the highlighted regulatory failures and point more towards other factors, such as current incentive structures, as technical services are paid directly by the manufacturers. Moreover, in its 2014 opinion, the IA Board pointed to the need to distinguish between genuine illegal activity and irregularities occurring, for instance, due to lack of awareness of the requirements. It also enquired about the relevance of weak administrative capacity in the Member States. These appear to be relevant considerations that a broader re-assessment of the problem definition could have explored more fully. Finally, the IA points out that there are links among areas B, C and E on the one hand (IA, part 2, p. 19) and between areas D and F (IA, part 2, p. 20) on the other. It also acknowledges the existence of overlaps among the problem areas (IA, part 1, p. 37). Therefore, one could ask to what extent these links and overlaps might have justified a different - and possibly simpler - structure to the analysis.

<sup>3</sup> Table 3, IA, part 2, p. 14. Cf. Table 1.1.6, IA, part 1, p. 71 for the production of the Netherlands and Luxembourg.

## Objectives of the legislative proposal

The IA presents two sets of objectives which are broadly coherent with the problem definition (IA, part 1, pp. 23-24; part 2, pp. 20-21). In the most recent set, one notices some shifts: some new aims are introduced, such as 'to restore consumers' confidence in the system', as well as the rather convoluted 'reduce the risk that non-compliance may not [be] prevented, detected and remedied'; there are also some calls for 'enhancing the financial independence of technical services', 'organising... targeted compliance verification testing of vehicles already placed on the market', 'including enhanced penalty provisions' (IA, part 2, pp. 20-21). In a way, this corresponds more explicitly to a broader re-assessment of the problem definition and is understandable after the Volkswagen case. However, some of this language also tends to pre-empt the range of options considered and it could give the impression, recurrent throughout the document, that this is an attempt to justify policy choices that have already been made. In both parts of the IA, the objective to enhance the competitiveness of the EU automotive industry is stated (IA, part 1, p. 23; part 2, p. 20).

## Range of options considered

The IA considers a set of options in its first part and, in its second part, some adjustments, which were introduced as a consequence of the Volkswagen case. The table below summarises all options, greys out the Commission's preferred course of action, which adds the adjustments introduced in part 2 to the options retained in part 1 of the IA, and frames the areas where there seems to be a realistic choice<sup>4</sup>.

**Table 1: Framing of the options in the IA**

| Area     | A: traceability                         | B: unclear responsibilities  | C: technical services   | D: safeguard and recall  | E: conformity of production  | F: enforcement   |
|----------|---|--|---|--|--|--|
| Part 1/2 | 1) Do nothing                           | 1) Do nothing  | 1) Do nothing   | 1) Do nothing  | 1) Do nothing  |  |
|          | 2) Self-regulation                      | 2) Self-regulation   | 2) Self-regulation  | 2) Self-regulation   | 2) Self-regulation   |  |
|          | 3) Regulation with level of ambition... | 3) Regulation: responsibilities of enforcement authorities to be clarified                       | 3) Regulation: requirements entitling technical services to be clarified and strengthened | 3) Regulation: role and interaction between authorities to be specified                          | 3) Regulation: inspection and testing  |  |
|          | Low<br>Medium<br>High                   | 4) Joint actions by Commission and Member States: training and guidelines                        |   |  |  |  |
| Part 2/2 |   | Adjustments: Enforcement Forum; compliance verification testing on vehicles placed on the market | Adjustments: joint audits of technical services; national type-approval fee structure     | Adjustments: all Member States and Commission can order recalls; penalties to technical services | Adjustments: joint audits to monitor conformity of production verification by technical services | Reinforced decentralised system with EU oversight managed by the Commission<br>EU type approval and market surveillance agency |

Source: IA, author's reworking

As the table shows, the IA organises the options according to the problem areas. This structure, used in other Commission IAs, seems to be sub-optimal in this particular case, as the IA itself notes that there are overlaps among the problem areas. Moreover, the realistic and viable choices seem to be limited to the three degrees of ambition for traceability (under A) and to the two options to enhance enforcement (F). The only other options available, beyond the Commission's preferred course of action, are 'doing nothing', always presented in an IA as the comparison

<sup>4</sup> The Commission's overview of the retained policy options is available in the IA, part 2, p. 22.

scenario, and self-regulation, revolving around awareness-raising campaigns and/or voluntary agreements. This weakness is even more striking after the Volkswagen case, as self-regulation no longer appears to be a realistic option. Therefore, the apparently extensive choice does not reflect reality and is rather misleading, since this impression was achieved through a particular way of framing the options. Considering the self-regulatory approach only once and merging some problem areas would have allowed more space for a better description of essential details and avoided repetitions in the subsequent analysis, thus helping overall comprehension.

## Scope of the Impact Assessment

Among the three pillars of impact assessments (economic, social and environmental impacts), this IA stresses in particular the analysis of economic effects, while less space is given to the social and environmental dimensions. It is understandable that environmental and social benefits are not quantified, as they would be subject to assumptions. Yet, it is surprising that they are not described in more detail for a proposal such as this. What would be the concrete benefits of the proposed measures on the environment or on the health of EU citizens? Can one imagine different benefits in large cities as opposed to the countryside or isolated areas? Would there be different benefits - or costs - in different sets of Member States? What are the expected impacts of the measures on employment, possibly distinguishing among Member States? Questions such as these are largely unanswered.

## Subsidiarity / proportionality

The first part of the IA contains a short section on subsidiarity, arguing *inter alia* that the cross-border dimension of the automotive industry and the interdependence of Member States on enforcement justify the added value of EU action (IA, part 1, pp. 22-23). The uncoordinated response of Member States to the Volkswagen case is presented as further evidence in this respect (IA, part 2, p. 6). At the expiry of the subsidiarity deadline (29 March 2016), no national parliaments had issued a reasoned opinion raising subsidiarity concerns.

The IA does not provide extensive arguments on the proportionality of the measures, contrary to the requirements of the new Better Regulation Guidelines. The IA simply states in the additional analysis: 'Each of the identified adjustments to increase the effectiveness of the selected policy options are considered to be fully in line with the proportionality principle as they envisage addressing the regulatory weaknesses of the current type-approval system' (IA, part 2, p. 26). The arguments used in part 1 of the IA were similar (IA, part 1, p. 29).

## Budgetary or public finance implications

There are costs for Member States' public finances, according to the estimates in the IA.

**Table 2: Summary of estimated costs for Member States (million EUR per year)**

|   | Pre-Volkswagen | Post-Volkswagen |
|---|----------------|-----------------|
| Cost of introducing market surveillance | 10             | 182             |
| Transposition into national legislation | 28             | -               |
| Implementation and enforcement          | -              | 28              |
| <b>Total</b>                            | <b>38</b>      | <b>210</b>      |

Source: IA and Executive Summary; author's reworking

As the table shows, the IA expects that, as a result of the measures selected in part 2 of the IA, costs for Member States would increase at least five-fold, compared with the ones relating to the options retained in part 1<sup>5</sup>. The cost estimates of the post-Volkswagen measures are based on the assumption that implementation and enforcement will cost EUR 1 million per Member State per year and market surveillance EUR 6.5 million per Member State per year (IA, part 1, p. 29). Although Member States should be able to confirm or contradict the accuracy of these figures, at first sight these assumptions do not seem to be robust, as they probably conceal different realities. The data provided on the percentage of type-approvals issued and total motor vehicle output per Member State (IA, part 2, p. 14), combined with the different cost of labour in the EU, would seem to be useful in order to provide more nuanced estimates.

<sup>5</sup> From EUR 38 million/year to EUR 220 million/year. The IA expects that transposition costs of pre-Volkswagen measures will equal implementation and enforcement costs of post-Volkswagen ones (IA, part 2, p. 29). Therefore, total costs are EUR 220 million/year.

According to the IA, the indicative monitoring and supervision costs for the EU budget range between EUR 9 million and EUR 11 million per year (Executive Summary, p. 3; IA, part 2, p. 42). These figures are coherent with the ones for the estimated financial impact of the proposal (approximately EUR 40 million for four years 2017-20). These costs would largely cover technical and scientific support by the Joint Research Centre (approximately EUR 27 million) and Commission human resources, which are either already assigned to the tasks or would be redeployed within DG GROW (nine full-time equivalent members of staff in total, apparently responsible for a wide range of tasks).

## **SME test / Competitiveness**

The Commission outsourced a competitiveness proofing study in the second half of 2013 on the measures envisaged at that time, focusing on the costs of doing business, the capacity to innovate and international competitiveness, with a specific focus on SMEs. The Commission drew the conclusion that no mitigating measures would be necessary for SMEs. The detailed information provided (IA, part 1, 53-56) does not seem to give a clear overall picture of the main findings of the study, which can instead be more easily found in the executive summary of the [competitiveness proofing](#) study itself<sup>6</sup>. One of the relevant findings is that the requirements under problem area C affecting technical services may create a gap between large firms, which are expected to incur manageable costs, and small firms, some of which may exit the market (p. iii). Although the IA states that the new measures are not expected to have a significant impact on competitiveness, the evidence presented to back this up seems to be limited to the estimates of the costs of doing business which, at first sight, do not appear very robust (see below under 'Quality of data, research and analysis').

## **Simplification and other regulatory implications**

Ensuring coherence with the type-approval legislation for motorcycles and tractors and with the horizontal legislation of the New Legislative Framework is one of the stated objectives already in the first part of the IA (IA, part 1, p. 23).

## **Relations with third countries**

The impact on international competitiveness was analysed for the measures selected by the Commission in 2014, but not in 2016. In the first part of the IA there are some useful facts and data on trade and international challenges (IA, part 1, pp. 72-73). In addition, the findings of the competitiveness proofing study focusing on the effects of the options retained by the Commission on international competitiveness point to both positive and negative expected impacts, depending on the market segment (IA, part 1, pp. 54-56). This would seem to be the starting point for a proper overall analysis of international effects, possibly complemented by the relevant new measures adopted after the Volkswagen case. The presentation in the IA does not facilitate drawing conclusions and more information can be gathered from the [competitiveness proofing](#) study.

## **Quality of data, research and analysis**

Despite the impressive selection of tools used in the preparation of this IA, the document does not seem to be presented in a way that fully facilitates consideration by the co-legislators. This would seem to compromise to some extent the quality of the analysis. Work on this IA started in 2010 and the apparently thorough preparation included several external studies (IA, part 1, pp. 6-7). The Commission made an additional effort by using some of the new tools at the forefront of better law-making, such as performing a fitness check pilot project - testing whether legislation is 'fit for purpose' - and a competitiveness proofing exercise. Among the useful pieces of evidence in the IA, one can highlight the facts about the overall structure of the European automotive industry (IA, part 1, Annex 7, pp. 65-73) and the data provided in the additional analysis (e.g. table 3, page 14). Surprisingly, the study of the Commission's own Joint Research Centre, quoted in Parliament's resolution of 27 October 2015, does not feature prominently in the IA<sup>7</sup>. Overall, the reader cannot easily distinguish between essential and non-essential information. Firstly, there seems to be a structural flaw: namely, the decision to complement the original IA from 2014 with additional material, rather than presenting a single self-standing document. This is compounded by the fact that the six problem areas partly overlap among themselves and with the six set of options, resulting in repetitions. Finally, the IA devotes a large part of the text to an elaborate monetisation of the benefits which is not robust (even by the Commission's own admission). The IA points out that this quantification has many methodological caveats, as it is 'not sufficiently precise'

<sup>6</sup> Economisti Associati, *Tasking for Competitiveness Proofing: Ex-ante evaluation of competitiveness impacts of identified options for a Commission policy proposal on the Review of Directive 2007/46/EC relating to the approval of motor vehicles*, 6 December 2013.

<sup>7</sup> The IA states that the Netherlands reported that 'JRC, TNO, AECC studies have shown divergences in NOx emission' (part 2, p. 50).

and is built on assumptions - to the extent that it is 'shifted to the Annexes [...] and [...] provided for information only' (IA, part 1, p. 8). However, this quantification remains the backbone of the IA: it is still used in the additional analysis published in 2016 as well as being given a prominent place, without any note of caution, in the most recent executive summary of the IA<sup>8</sup>. It is therefore worth making an initial critical assessment. Although the monetisation is more detailed and complex, the main rationale is summarised below for demonstration purposes.

**Table 3: Some assumptions behind the Commission monetisation of benefits**

|   | Rationale   | Lower estimate: non-compliant products | Upper estimate: unsafe and non-compliant products | Source   |
|---|---|--|---|--|
| 1 | The market for non-compliant and unsafe automotive products is assumed to be worth...   | EUR 5 billion                          | EUR 30 billion                                    | IA, part 1, pp. 74 to 76   |
| 2 | The percentage of recalls linked to the problem areas A to E is assumed to be in the following range...   | 25%                                    | 70%   | Commission analysis of 149 recalls in 2010 (IA, part 1, pp. 77-78)   |
| 3 | Therefore, the estimated contribution of the above problem areas to the value of non-compliant and unsafe products on the market is in the following range...   | EUR 1.25 billion                       | EUR 21 billion                                    | Multiplication (line 1 X line 2) (IA, part 1, p. 78)   |
| 4 | The options selected in the 2014 IA are expected to be either effective (areas A, C, E) or highly effective (area B <sup>9</sup> ). This is transformed into a reduction in non-compliant and unsafe products of... | 50% (A, C, E) and 75% (B)              |   | Verbal ranking of stakeholders, transformed into percentages by the Commission's services (IA, part 1, p. 76, pp. 37-38) |
| 5 | Therefore, the monetary value of such reduction in non-compliant and unsafe products is worth...  | EUR 0.65 billion                       | EUR 12 billion                                    | Multiplication (line 3 X line 4) (IA, part 1, pp. 37-38)   |
| 6 | However, assuming that the new measures selected in 2016 will be 50% more effective than the ones selected in 2014 in reducing non-compliant products, the increased benefit will be...                             | EUR 0.35 billion                       | N.a.  | Commission services' judgement; multiplication (line 5 X 50%)  |

Source: IA; author's reworking

After a first appraisal, this monetisation seems unsound and is, to some extent, misleading. First of all, the relevance of recalls (*line 2 in the table above*) as an indicator for non-compliant and unsafe products appears to be contested elsewhere in the analysis, as the IA states that 'the vast majority of recalls in the automotive sector are of a voluntary nature and are undertaken by the manufacturer to address quality issues, which not necessarily have a bearing on safety or environmental performance and therefore on the compliance of the product with the relevant requirements of the type-approval framework' (IA, part 1, p. 14). Therefore, the entire basis for the monetisation seems to be problematic. Yet, even if one were to accept this indicator, other assumptions are not rigorous and can compromise the conclusions drawn. A large percentage of recalls (from 30% to 75%) could not be linked to the identified problem areas (*line 2*). Moreover, basing the effectiveness of the measures on the *verbal* rankings of stakeholders (*line 4*) raises some questions: which stakeholders and how many? Would the same stakeholders who validated the conclusions in 2014 support the same conclusions today? Even more so, for the new measures, the IA essentially puts a figure on the benefits, apparently without stakeholder input (*line 6*). Additional weaknesses appear to further compromise the conclusions.<sup>10</sup> The analytical section of the IA largely follows this rationale, broken down for each area, and complements it with additional information. In some instances, the IA duplicates entire paragraphs with minor changes, as the assumptions are the same. This monetisation overload does not help the reader, who struggles to find essential information. It takes space away from other aspects which would seem to be at least as important, such as the findings of the competitiveness proofing and a possible stronger analysis of health, environmental and employment impacts. Moreover, it gives a false impression of accuracy to estimates that are surrounded - by the Commission's own admission - by a high degree of uncertainty. In some cases, this monetisation seems to be counter-

<sup>8</sup> The most recent [Executive Summary](#) should be distinguished from the one opening the IA (part 1, pp. 4-5), which refers only to the pre-Volkswagen measures.

<sup>9</sup> According to the IA, area D cannot be quantified.

<sup>10</sup> For instance, there seems to be some double-counting of benefits in the Executive Summary. Benefits relating to 'non-compliant products' (EUR 1 billion) are added up with the ones relating to 'unsafe and non-compliant products' (EUR 12 billion).

productive, as one would conclude that the new measures may not be worth pursuing; in fact, most monetised benefits would be achieved by the earlier measures in part 1 of the IA (EUR 12 billion), as opposed to the new measures in part 2 of the IA (a mere EUR 0.35 billion - see table 3 above). This conclusion is confirmed by analysing costs (see below). Therefore, presenting a genuinely qualitative assessment - or an altogether different quantification - would seem to be, in this case, a better approach overall.

**Table 4: Main cost estimates in the IA**

| Estimated costs for | Selected options in the IA, part 1 |  | Selected options in the IA, part 1 and 2 |  |
|---------------------|------------------------------------|--|--|--|
|                     | Expected costs are                 | Quantification<br>(million EUR per year) | Expected costs are                       | Quantification<br>(million EUR per year) |
| Member States       | Moderate                           | 38                                       | High                                     | 220                                      |
| Commission          | Moderate                           | 0  | High                                     | 10                                       |
| Technical services  | Moderate                           | 3  | High                                     | 12                                       |
| Manufacturers       | Moderate                           | 90                                       | Moderate                                 | 100                                      |
| <b>Total</b>        |                                    | <b>131</b>                               |  | <b>342</b>                               |

*Source: IA; author's reworking*

In the IA, expected benefits (EUR 13 billion/year) outweigh expected costs (EUR 342 million/year) by a factor of 38 to 1. However, this appraisal argues that the monetisation of benefits is too weak - by the Commission's own admission in the IA - to draw this conclusion. Nor does the monetisation of costs appear to be sufficiently robust. The assumptions underpinning the costs for Member States are analysed above (see 'Budgetary or public finance implications'). Additionally, the IA seems to argue that, as a result of the measures selected in part 2 of the IA, yearly costs would increase four-fold for technical services, compared with the costs relating to the options retained in part 1 (from EUR 3 million to EUR 12 million - see table above), and increase by approximately 10% for manufacturers (from EUR 90 million under part 1 to EUR 100 million overall). The stakeholders concerned should be able to confirm or contest the accuracy of the Commission's IA quantification.

## Stakeholder consultation

The IA identifies the categories of stakeholders affected by the problem and by the regulatory solutions proposed, at least in a broad sense, as being citizens, economic operators, in particular SMEs, national enforcement authorities and technical services. There is a useful and more detailed breakdown of relevant businesses - such as manufacturers of vehicles, spare parts, tyres, distributors of vehicles etc. - in the competitiveness proofing section, but regrettably not in the main analysis of the IA.

There seems to have been an attempt to consult broadly and extensively before the 2014 IA through different groups of experts and Member State authorities, even though the online public consultation in 2010-11 elicited just 40 relevant responses. There was also an attempt to gather some additional input, including from national authorities and NGOs, in the short period of time between the Volkswagen case in September 2015 and the publication of the proposal and of the IA in January 2016. However, the input of citizens, both as car owners and other road users, seems to be an aspect that could have been strengthened overall.

## Monitoring and evaluation

According to the proposal, Member States would have to inform the Commission on the application of the type-approval and market surveillance procedures within five years after the entry into force of the Regulation. Based on this information, the Commission would present an evaluation to Parliament and Council. Monitoring and notification measures are one of the key features of the proposal and correspond to the main lines described in the IA. A particularly relevant key indicator for an ex-post evaluation suggested in the IA are the possible views/complaints of consumers received by enforcement authorities (IA, part 1, p. 39). This is complemented by other relevant indicators linked to audit and ex-post compliance verification testing (IA, part 2, p. 43).

## Commission Regulatory Scrutiny Board (RSB)

According to the working methods of the Commission and the current Better Regulation (BR) Guidelines, an initiative having significant impacts should be accompanied by a positive opinion from the Regulatory Scrutiny Board on the accompanying IA. However, the only positive opinion by the Board accompanying this IA dates back to March 2014



and relates just to the first part. The IA states that the Commission's Board assessed a draft of the additional analysis 'and issued its recommendations on 21 January 2016' (IA, part 2, p. 7; author's underlining) - just days before the proposal was adopted. However, to date, the Commission has not made public any recommendation or opinion - positive or negative - on the IA as complemented by the additional analysis after the Volkswagen case emerged. Moreover, some of the new requirements in the BR Guidelines, which were in force when the RSB analysed the modified IA, have not been complied with. For instance, all of the '**annexes that must be included in the impact assessment report**' ([Better Regulation Toolbox](#), Tool 8, bold and underlining in the original text) have not been made available. One compulsory annex that would have been particularly useful is the one on 'Who is affected by the initiative and how', which should have set out the practical implications and obligations of the initiative for a representative enterprise and/or public administration (Tool 8, p. 50).

## Coherence between the Commission's legislative proposal and IA

The IA appears to be coherent with the Commission's legislative proposal. There seems, nonetheless, to be an issue of focus: more attention is devoted in the IA to elements such as the detailed quantification, than to examining potential practical measures and their likely impacts. For instance, according to the Commission's fact sheet on the proposal, the Commission could levy fines of as much as EUR 30 000 per vehicle on manufacturers not complying with the rules; could order vehicle recalls and withdrawals; would have the power to suspend, restrict or withdraw licences given to technical services or fine them. Even if it had not been possible to anticipate all such specific measure in the IA, the general thrust should have been examined. Also, according to the Commission's own Better Regulation Guidelines, it is advisable to provide in the Explanatory Memorandum a '*More detailed explanation of the specific provisions of a proposal*' (Better Regulation Tool n. 34, p. 244), which unfortunately is not there.

## Conclusions

This IA is the result of a process of analysis and consultation that started in 2010. It accompanies a proposal which the Commission presented rapidly after the Volkswagen case and in response to the calls made by Parliament in its resolution of October 2015. Some useful information can be found in the IA; however, even bearing in mind that impact assessments should not unduly delay the legislative process, an initial appraisal of its quality would suggest that this IA is not presented in a way that facilitates consideration by the co-legislators. The decision to publish the IA in two parts does not help overall comprehension, despite an honest attempt to show the links between the two. The problem definition devotes limited attention to the social and environmental consequences. The framing of the options makes it difficult to distinguish between essential and non-essential elements. Moreover, by the Commission's own admission, the monetisation of benefits is not sufficiently robust and gives an impression of certainty to estimates which are in fact surrounded by a high degree of uncertainty. All of these elements compromise to some extent the quality of the IA. Finally, the internal quality assurance procedures do not appear to be fully in line with BR principles, in that this IA is accompanied only by the original 2014 opinion of the IA Board, which corresponds to the measures planned at that time, without any update covering the additional material provided later in part 2 of the IA.

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*This note, prepared by the Ex-Ante Impact Assessment Unit for the European Parliament's Committee on the Internal Market and Consumer Protection (IMCO), analyses whether the principal criteria laid down in the Commission's own Better Regulation Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal. It is drafted for informational and background purposes to assist the relevant parliamentary committee(s) and Members more widely in their work.*

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