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Committee on the Internal Market and Consumer Protection

2012/0184(COD)

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DRAFT OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Transport and Tourism

on the proposal for a regulation of the European Parliament and of the Council
on periodic roadworthiness tests for motor vehicles and their trailers and
repealing Directive 2009/40/EC
(COM(2012)0380 – C7-0186/2012 – 2012/0184(COD))

Rapporteur: Malcolm Harbour

PA_Legam

SHORT JUSTIFICATION

The proposal lays down updated harmonised EU rules on the roadworthiness testing of motor vehicles and trailers with a view to strengthening minimum safety and emissions standards for periodic Roadworthiness tests (PTI). The proposal aims to help reduce EU road fatalities by half before 2020 according to the EU's Policy Orientations on Road Safety. Furthermore the proposal aims to contribute to emissions reductions resulting from poor vehicle maintenance.

Your Rapporteur supports these key objectives, and given the differences between Member States' practices, supports targeted harmonisation in accordance with the subsidiary principle, and therefore doubts that the instrument should be a Regulation leaving less room for Member States to adapt the rules nationally.

Furthermore, your Rapporteur believes that the road-fatalities reduction target should be achieved while ensuring proportionality, and accordingly supports adapted solutions based on a solid evidence base. With this, he would like to draw attention to the uncertainties highlighted by the European Parliament's Impact Assessment Unit that: "the basic assumption that better and more frequent technical inspections would lead to fewer defects in vehicles seems not to be supported by evidence at all".

Your Rapporteur also notes that the scope has been extended beyond that of Directive 2009/40/EC to include new categories of vehicles, in particular powered two and three wheelers, light trailers below 3.5 tonnes, and tractors with a design speed exceeding 40 km/h. The proposal also increases the frequency of inspections for older or high-mileage vehicles.

Your Rapporteur has not proposed any changes in relation to the form or scope of the draft law, nor to the duration of testing as these are issues for the lead Committee, and has decided instead to focus his amendments on single market matters. From an IMCO perspective, the most relevant issues include:

1. How to define "Roadworthiness test"

Your Rapporteur proposes an Amendment to modify the definition of a Roadworthiness test, which currently might be misused to limit cross-border competition in trade of second hand vehicles. Specifically, the Commission's definition creates legal uncertainty because it restates, in a general definition, the requirement to test according to type-approval criteria in general, whereas the relevant type approval criteria are already specified in the annexes. This implies that all components in a vehicle can potentially be tested since it is possible to discern a safety dimension for all vehicle components. It should only be relevant to test those, which are type approved for safety and emissions. The concern is that some actors may exploit this loophole to protect the domestic market for used vehicles and fail vehicles without good reason.

2. Measures to identify and prevent mileage fraud.

Amongst all products, the Consumer Markets Scoreboard gives second-hand cars the lowest Market Performance score for the third consecutive year, and in particular, the lowest rank in

terms of trust. Accordingly, your Rapporteur proposes enhanced measures to combat odometer fraud by expanding the scope of the electronic vehicle information platform to ensure a web-based platform holds all vehicle mileage information. Furthermore, your Rapporteur is concerned that the Commission's proposal bans any correction to an odometer including those upward adjustments which would avoid leaving the affected vehicles with unnecessarily reduced market value.

3. Access to roadworthiness test results on national registers, access to technical information, and minimum testing equipment requirements.

The Regulation introduces the possibility of establishing an EU harmonised data exchange system, allowing PTI test centres across the EU to access vehicle repair and maintenance information. But your Rapporteur thinks that access to this repository should not be limited to competent authorities and PTI testing centres. To ensure a level playing field, he proposes to also allow garage equipment manufacturers to have access as this will allow them to produce competitive and effective test equipment. Your Rapporteur also proposes to allow the deployment of alternative testing processes which may be vital to facilitate the cost-effective testing of vehicles which are difficult to test.

4. Exemptions.

Your Rapporteur welcomes the exemption for 'historic vehicles'. However he considers the definition is too prescriptive and recommends instead providing a basic age requirement. Furthermore he proposes to maintain Member States' discretion to exempt vehicles from the Regulation in line with current practice.

5. Mutual recognition

Roadworthiness testing is linked to the re-registration of Motor Vehicles given that greater EU-harmonisation on PTI testing should simplify vehicle re-registration from one Member State to another. Accordingly your Rapporteur has introduced a new proposal stipulating the mandatory mutual recognition of PTI testing certificates across the Union.

6. Review and monitoring.

To further strengthen the single market, your Rapporteur has also introduced a review clause to investigate, five years after the adoption of this proposal, the potential for facilitating data exchange of PTI testing results between Member States.

AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1
Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) A roadworthiness certificate should be issued after each test, ***including inter alia information related to the identity of the vehicle and information on the results of the test. With a view to ensure a proper follow-up of roadworthiness tests,*** Member States should collect and keep such information in a database.

Amendment

(22) ***To ensure the proper follow up of testing results,*** a roadworthiness certificate should be issued after each test ***and should also be created in electronic format, with the same level of detail in relation to vehicle identity and test results as is contained on the original test certificate. Furthermore,*** Member States should collect and keep such information in a ***centralised*** database ***in order to ensure that the authenticity of the periodical technical inspections results can be easily verified.***

Or. en

Justification

Roadworthiness certificates should now be delivered in hard copy as well as electronically to avoid forgery or tampering, and to facilitate information exchange which will enable the development of the Electronic Vehicle Information Platform.

Amendment 2
Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) Odometer fraud is considered to affect between 5 % and 12 % of used cars sales, resulting in a very important cost to society of several billions Euros yearly and in an incorrect evaluation of a roadworthiness condition of a vehicle. With a view to combat odometer fraud, the recording of mileage in the roadworthiness certificate combined with the obligation to present the certificate of the previous test would

Amendment

(23) Odometer fraud is considered to affect between 5 % and 12 % of used cars sales, resulting in a very important cost to society of several billions Euros yearly and in an incorrect evaluation of a roadworthiness condition of a vehicle. With a view to combat odometer fraud, the recording of mileage in the roadworthiness certificate combined with the obligation to present the certificate of the previous test would

facilitate the detection of tampering or manipulation of the odometer. Odometer fraud should also be more systematically considered as an offence liable to a penalty.

facilitate the detection of tampering or manipulation of the odometer **and would furthermore improve the functioning of the single market in respect of cross border trade of second hand cars. Indeed, in the eighth edition of the consumer markets scoreboard ‘Making markets work for consumers’ of December 2012, for the third year running, this market segment was ranked with the lowest market performance score, and in particular the lowest rank in terms of trust.** Odometer fraud should also be more systematically considered as an offence liable to penalty.

Or. en

Amendment 3
Proposal for a regulation
Article 3 – paragraph 1 – point 7 – introductory part

Text proposed by the Commission

(7) ‘vehicle of historic interest’ means any vehicle which **fulfils all the following conditions** :

Amendment

(7) ‘vehicle of historic interest’ means any vehicle which **was manufactured or registered for the first time at least 30 years ago, and is considered to be historical by competent Member State vehicle registration authorities.**

Or. en

Justification

The Commission's definition of vehicle of historic interest is unnecessarily detailed and would lead to many vehicles unduly falling within the scope of the Regulation. A simple age requirement with further specification left to Member State authorities provides sufficient flexibility and is in line with current practice.

Amendment 4
Proposal for a regulation
Article 3 – paragraph 1 – point 7 – indent 1

Text proposed by the Commission

Amendment

– It was manufactured at least 30 years ago, *deleted*

Or. en

Amendment 5
Proposal for a regulation
Article 3 – paragraph 1 – point 7 – indent 2

Text proposed by the Commission

Amendment

– It is maintained by use of replacement parts which reproduce the historic components of the vehicle; *deleted*

Or. en

Amendment 6
Proposal for a regulation
Article 3 – paragraph 1 – point 7 – indent 3

Text proposed by the Commission

Amendment

– It has not sustained any change in the technical characteristics of its main components such as engine, brakes, steering or suspension and *deleted*

Or. en

Amendment 7
Proposal for a regulation
Article 3 – paragraph 1 – point 7 – indent 4

Text proposed by the Commission

Amendment

– It has not been changed in its appearance; *deleted*

Amendment 8
Proposal for a regulation
Article 3 – paragraph 1 – point 9

Text proposed by the Commission

(9) ‘roadworthiness test’ means *a verification that the parts and components of a vehicle comply with its safety and environmental characteristics in force at the time of approval, first registration or entry into service, as well as at the time of retrofitting*;

Amendment

(9) "Roadworthiness test" means *an inspection, in accordance with Annex II and Annex III of this Regulation, to ensure that a vehicle is safe to be used on public roads and complies with required environmental characteristics*;

Or. en

Justification

The Commission's definition creates legal uncertainty because it restates -- in a general definition -- the requirement to test according to type-approval criteria in general, whereas the relevant type approval criteria (for the purposes of safety and emissions testing) are already specified in the Annexes to this Regulation. Without this Amendment, any vehicle component which is type-approved could be singled out for safety testing, and vehicles might be unnecessarily failed as a result.

Amendment 9
Proposal for a regulation
Article 4 – paragraph 3

Text proposed by the Commission

3. Vehicle manufacturers shall provide the testing centres *or, when* relevant, the competent *authority*, with access to the technical information necessary for roadworthiness testing, as set out in Annex I. The Commission shall adopt detailed rules concerning the procedures on access to the technical information set out in Annex I in accordance with the examination procedure referred to in Article 16(2).

Amendment

3. Vehicle manufacturers shall provide the testing centres, *testing equipment manufacturers, and, where* relevant, the competent *authorities*, with access to the technical information necessary for roadworthiness testing as set out in Annex I. The Commission shall adopt detailed rules concerning the procedures on access to the technical information set out in Annex I in accordance with the examination procedure referred to in

Justification

To ensure a level playing field, this Amendment proposes to also allow testing equipment manufacturers to benefit from access to PTI technical data for designing and manufacturing effective and competitive test equipment. There are concerns that references to Annex I may lead to disproportionate information requirements on manufacturers since Annex I is much broader than what is actually required for PTI testing. Accordingly, further changes may be proposed in Amendment to this draft Opinion.

Amendment 10
Proposal for a regulation
Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Where an application for vehicle re-registration has been received, and the vehicle originates from another Member State, registration authorities shall recognise the vehicle's roadworthiness certificate, once its validity has been verified at the time of re-registration. Recognition shall be granted for the same period as the original validity of the certificate, except where the certificate's original validity period extends beyond the maximum legal duration in the Member State where the vehicle is being re-registered. In that case validity shall be aligned downwards, and calculated from the date on which the vehicle received the original roadworthiness certificate. Before the date of application of this Regulation, Member States shall communicate to each other the format of the roadworthiness certificate recognised by their respective competent authorities as well as instructions on how to verify authenticity.

Justification

In order to facilitate the re-registration of motorvehicles across the Union, this Amendments introduces a system for the mutual recognition of roadworthiness certificates between Member States, with effect from the date of application of this Regulation.

Amendment 11 **Proposal for a regulation** **Article 8 – paragraph 3**

Text proposed by the Commission

3. As from the date of entry into force of this Regulation and at the latest 3 years afterwards, the testing centres shall communicate electronically, to the competent authority of a Member State the information mentioned in roadworthiness certificates which they deliver. This communication shall take place within a reasonable time after the issuance of the roadworthiness certificates. Until this date, the testing centres may communicate this information to the competent authority by any other means. The competent authority shall keep this information for 36 months from the date of its reception.

Amendment

3. As from the date of entry into force of this Regulation and at the latest 3 years afterwards, the testing centres shall communicate electronically, to the competent authority of a Member State the information mentioned in roadworthiness certificates which they deliver. This communication shall take place within a reasonable time after the issuance of the roadworthiness certificates. Until this date, the testing centres may communicate this information to the competent authority by any other means. The competent authority shall keep this information ***on a centralised database*** for 36 months from the date of its reception.

Or. en

Justification

This Amendment is intended to facilitate information exchange which will enable the development of the Electronic Vehicle Information Platform.

Amendment 12 **Proposal for a regulation** **Article 15 – paragraph 1**

Text proposed by the Commission

The Commission shall examine the feasibility, costs and benefits of the establishment of ***an electronic vehicle information platform with a view to***

Amendment

The Commission shall examine the feasibility, costs and benefits of the establishment of ***a method to facilitate access to information on vehicle***

exchange information on data related to roadworthiness testing between the competent authorities of Member States responsible for testing, registration and vehicle approval, the testing centres and the vehicle manufacturers.

roadworthiness test results, odometer readings and vehicle registration information, between the competent authorities of Member States responsible for testing, registration and vehicle approval, the testing centres and the vehicle manufacturers. ***The Commission shall take advantage of existing IT solutions with regard to data which is publically available.***

Or. en

Justification

This amendment proposes to investigate reciprocal access to test data information across the EU, while building on the information which many Member States already make available online today so as to minimise costs and avoid duplication. Competent Authorities in other Member States already have access to this information, and the feasibility study should focus on what minimum data is required.

Amendment 13 Proposal for a regulation Article 18 a (new)

Text proposed by the Commission

Amendment

Article 18 a

Reporting

By [five years from the date of entry into force of this Regulation], the Commission, shall submit a report to the European Parliament and the Council on the implementation and effects of this Regulation, in particular as regards the effectiveness of the provisions on the scope, the frequency of testing, and the results of the examination concerning the feasibility of introducing an electronic vehicle information platform, as specified in Article 15 and the implementation of the mutual recognition of roadworthiness certificates. The report shall also analyse whether there is a need to update the Annexes to this Regulation in the light of

technical progress and practice. This Report shall be submitted after the consultation of the Committee referred to in Article 16, and shall be accompanied, where appropriate, by legislative proposals.

Or. en

Justification

The proposed review clause is the key oversight mechanism to ensure the effective implementation of the proposed Regulation and to ensure maximum benefits are delivered to consumers and businesses in the single market.

Amendment 14
Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

2. Each Member State shall take the necessary measures to ensure that the manipulation or tampering of an odometer is regarded as an offence and is punishable by effective, proportionate, dissuasive and non-discriminatory penalties.

Amendment

2. Each Member State shall take the necessary measures to ensure that the manipulation or tampering of an odometer is regarded as an offence and is punishable by effective, proportionate, dissuasive and non-discriminatory penalties, ***except for upward adjustments to odometer readings authorised by a testing centre or a competent authority to correct prior illegal manipulations.***

Or. en

Justification

This Amendment ensures that where vehicle odometer readings have been illegally tampered with, these may be lawfully adjusted upwards by testing centres or competent authorities to ensure that the affected vehicles are not effectively written off and can pass PTI roadworthiness tests in future.

Amendment 15
Proposal for a regulation
Annex 2 – part 1 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

In exceptional situations, where specific vehicle design is not compatible with the application of the test methods set out in this Annex, the test shall be conducted in accordance with the specific alternative test methods recommended by Member State competent authorities. Any test method used, which is not specified in this Annex, must be approved in writing by the appropriate competent authority.

Or. en

Justification

Certain vehicles, such as fast tractors and vehicles with attachments, can be particularly difficult to test because of their design characteristics or because the test centres are so remote that the cost to upgrade equipment to accommodate certain rarely seen vehicles would be disproportionate. Therefore alternative and non standard test methods which are however clearly approved by the appropriate Competent Authority need to be available.