

Authority for  
Consumers & Markets



COMMISSION EUROPÉENNE  
DIRECTION GÉNÉRALE  
JUSTICE et CONSOMMATEURS

Brussels, 6 September 2017

Mr Matthias MÜLLER  
Chairman of the Board  
Volkswagen company  
Berliner Ring 2  
D – 38436 WOLFSBURG

Dear Mr Müller,

Under the Consumer Protection Cooperation (CPC) Regulation (2006/2004/EC), EU Member State authorities work together to enforce EU consumer law in the Single Market. In this context, CPC authorities, under the lead of the Netherlands Authority for Consumers and Markets (ACM), have taken the attached common position expressing a number of concerns regarding the repair and guarantee of the diesel cars of the Volkswagen group (hereafter: Volkswagen) that were affected by the use of a particular software and which belong to consumers residing in the EU.

This position is taken on the basis of the applicable EU consumer legislation.<sup>1</sup> It is without prejudice to any action that is currently being or may be taken at Member State level.<sup>2</sup> The European Commission is acting as a facilitator in this process.

Between 2009 and 2015, Volkswagen sold approximately 8.5 million cars on the market in the EU fitted with software not authorized in accordance with Article 5 of Regulation (EC) No 715/2007. This practice is already considered a misleading commercial practice in some Member States. A proposed repair time schedule was presented to the relevant type approval authorities in the EU, upon request from the German Kraftfahrt-Bundesamt (KBA). However almost two years after the software was discovered, a large proportion of affected cars has still not been repaired.<sup>3</sup> CPC authorities stress that Volkswagen should ensure that the problem it created is remedied, not only in line with applicable type approval legislation but also with the requirements of EU consumer law.

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<sup>1</sup> Directive 1999/44/EC on Sales and Guarantee and Directive 2005/29/EC on Unfair Commercial Practices (UCPD).

<sup>2</sup> For example, possible claims for damages against VW might be justified according to national tort law, as a recent judgement in Germany stated.

<sup>3</sup> Between 30 and 60%, depending on the Member State.

CPC authorities acknowledge that Volkswagen has made a gesture towards consumers with their recent 'Trust Building Measure'. Although that measure falls short of a full guarantee, we would expect Volkswagen to honour it. Recently, ACM asked for more information about the extent of the measure. Volkswagen responded that: "The Trust Building Measure covers a total of 11 components within the exhaust gas recirculation system, the fuel injection system and the emissions after treatment system: lambda probe, temperature sensor, EGR changeover valve, exhaust gas recirculation valve, exhaust gas recirculation pressure differential sensor, injector, high pressure pump, fuel rail, pressure control valve, pressure sensor, high pressure pipelines. The measure applies for a period of 24 months from when the vehicle receives the technical measure and only to vehicles with mileage of under 250,000 km at the time the Trust Building Measure is implemented (whichever comes earlier). Additional information on the eligibility for the Trust Building Measure can be found on the respective importers' website."

However, CPC authorities would like to make clear to Volkswagen that concerns remain, in particular regarding both the lack of transparency of Volkswagen and the performance of the recalls and repairs. Furthermore, CPC authorities ask Volkswagen to make the 'Trust Building Measure' not only more publicly known, but also legally binding. Consumers need this information in order to make an informed decision on whether or not they let their car be repaired.

Given the extent and duration of the described practice, the time it takes to implement the repair and the inconvenience therefore created for consumers and to restore consumer confidence, CPC authorities also encourage Volkswagen to offer a "quid pluris" solution on a voluntary basis to all consumers owning an affected car.

We would appreciate your confirmation, within one month from the sending of this letter, that you will comply with the requests set out in this letter and the attached common position. CPC authorities are open to discuss the issues with representatives from Volkswagen as soon as possible.

Sincerely,



Ms Tiina ASTOLA

Director General, DG Justice and Consumers



Ms Bernadette VAN BUCHEM

Director Consumers, Netherlands Authority for Consumers and Markets