

Italian action on Fiat shows why reform of EU testing system is urgently needed

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Summary

While regulators in the US have taken action against the VW Group and are now investigating the FCA Group over alleged emissions cheating, the national regulators in charge of enforcing emission rules in Europe continue to protect home carmakers and ignore the air pollution crisis affecting the urban populations. In the latest development – and against the backdrop of the Fiat investigations in the US – the Italian government claims its investigations do not show any wrongdoing by the company.

T&E has got hold of Italy's Dieselgate emissions investigation. The report proves that the home carmaker got special treatment, for example Fiat's cars were tested in the carmaker's own labs and some vehicles were even "exempted" from undergoing more demanding tests. This shows what is going to happen if type approval rules are not tightened up and all enforcement continues to sit with national authorities. Europe needs to urgently revamp the way cars are approved for use to finally inject independence and transparency into the current system, which is paralysed by regulatory capture. Strong EU authority to check both cars and national authorities should be the basis of any future system.

1. Without reform lack of action will persist

One and half years after the eruption of the VW emissions scandal in the US not much action happened in Europe either vis-à-vis the VW Group or any other carmaker engulfed in the Dieselgate scandal, with tens of millions of illegally polluting diesel vehicles continuing to freely drive and pollute urban air.¹ The latest smog outbreaks in EU capitals this winter show the outcome of both failing to effectively regulate car emissions and having systems in which governments prioritise the interests of their car industries above those of public health and consumers.

At the heart of the problem is today's vehicle testing system in Europe – i.e. type approval – which relies on 28 national type approval authorities (TAAs) to certify that cars meet all of the requirements before they are sold and used on the roads. Carmakers can choose any one of the 28 authorities to get an approval and then sell the vehicle EU-wide. The tests are often done in carmakers' own labs and "witnessed" by technical services which are paid for their work. The enforcement of the rules is left entirely with the member states, with neither the Commission nor non-type approving authorities having any powers to order recalls or remedy action from carmakers. The current Dieselgate scandal in Europe, with at least 29 million grossly polluting vehicles on the road,² contributing to 72,000 premature deaths³ from breathing nitrogen dioxide, has laid bare the human cost of the current inadequate and corrupted

¹ Transport & Environment, <https://www.transportenvironment.org/publications/dieselgate-who-what-how>

² Ibid.

³ European Environment Agency, <http://www.eea.europa.eu/media/newsreleases/many-europeans-still-exposed-to-air-pollution-2015/premature-deaths-attributable-to-air-pollution>

system. The recent hearings for TAAs at the Parliament's VW Enquiry Committee (EMIS) have further produced a litany of excuses that disgraces the regulators and demonstrates member states are skewing the single market for vehicles in order to support national manufacturers or earn fees from clients.⁴

Following the emissions scandal, there is now a once-in-a-decade opportunity to reform the type approval system, notably the current negotiations on the new Type Approval Framework Regulation (TAFR) proposed by the Commission early last year. The key ideas on the table include:

- **Commission's power to independently re-test vehicles** already on the road and require the remedy action necessary, including recalls, penalties and consumer compensation;
- **Better oversight of the work of 28 national testing authorities** to ensure all implement the environmental and safety rules rigorously and to equally high standards;
- Obligations on member states to **conduct sufficient market surveillance** (e.g. 20% of new models) to ensure vehicles and separate components placed on the market meet the requirements.

These proposals are currently debated by the European Parliament and the Council of Ministers, who are about to agree their own positions and will then meet later this year to finalise the deal (so-called trilogue negotiations). **The first key milestone is the vote by the internal market committee** of the Parliament leading on the proposals **on 9 February**. Earlier last year both the Environment and Transport committees voted on their opinions; both called for a new EU Agency on vehicle enforcement to check cars on the road (post-type approval, similar to the US EPA). While in favour of the above reforms, the internal market committee is not expected to call for such an agency, but the debate will resurface once the issue will come to the plenary vote in a few months. Only a strong EU regulator in charge of checking cars and national authorities will result in a more robust and independent testing system in the future.

There is much **less progress in the Council**. Many governments are opposed to any reform and would like to keep the failed status quo as it allows them to protect national champions and treat approvals as a commercial activity, thus colluding with the industry. With a notable exception of FR, UK, NL and DK most countries – DE, IT, LU, eastern and central EU member states – are so far opposed to any effective EU oversight or vehicle checks fearing it would undermine the current preferential treatment industry receives. Many remaining countries simply do not see this reform as a political priority. Consequently, the opportunity to avoid future scandals and ensure vehicles on the road meet standards could be missed. Such a response to such a widespread scandal shows a shocking level of regulatory capture by carmakers of the agencies and governments that are supposed to ensure the rules are met.

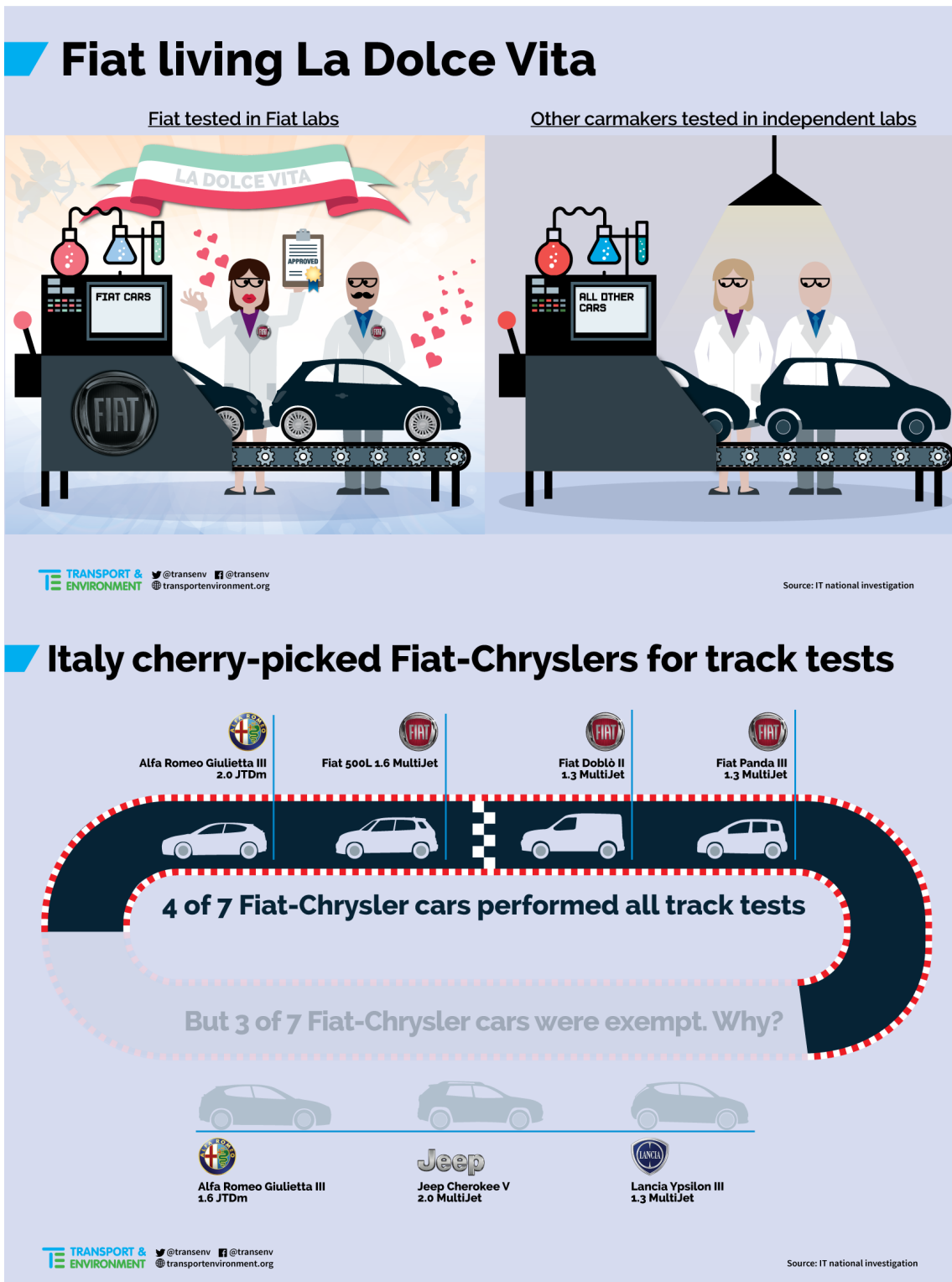
2. Fiat, or what you get with national enforcement

The latest carmaker to make the headlines for suspected cheating on emissions, albeit again in the US, is the Fiat Chrysler Group (FCA), which is suspected on deploying illegal defeat devices resulting in high dangerous pollutant emissions on the road. Similar concerns have been raised by the German authority (KBA) in Europe for over six months, when it alerted that its tests showed some Fiat models switching down emission controls after 22 minutes – just after the test has finished. But no action against Fiat has been taken because the Italian authorities (that approve Fiat vehicles in the EU and thus have a final say on any action against the carmaker) claim that their tests show full compliance with the EU rules for the affected vehicles.

Transport & Environment has obtained a copy of the Italian emissions testing with results of 18 Euro 5 diesel models (including 7 from the FCA Group) that the government has undertaken following the VW

⁴ Transport & Environment,
https://www.transportenvironment.org/sites/te/files/publications/2016_11_EMIS_evidence_briefing.pdf

emissions scandal. Our expert review shows the report fails to test all the vehicles in a similarly rigorous manner and proves special treatment to Fiat models - the national carmaker. The infographic below summarises some of the biggest problems.



Firstly, all the non-FCA vehicles were tested by a public research institute, Istituto Motori of the National Research Council (IM-CNR) while the 7 Fiat cars were tested in the carmaker’s own facilities in the Turin area.

Secondly, it appears that not all Fiat vehicles had to undergo all the tests designed for the emissions programme. Without any explanation given, at least 3 models were not tested on the outside track using PEMS, which is the closest test designed to mirror the real-world driving conditions. These are Alfa Romeo Giulietta III, Jeep Cherokee V and Lancia Ypsilon III. The same three models escaped being tested on a demanding *hot Artemis* cycle, designed to screen for defeat devices.

Thirdly, as the test track chosen was too short, all the tests had to be stopped after 17 min despite the EU protocol of 20 min. This undermined the accuracy of the emission measurements. And in such conditions it was, of course, impossible to establish whether or not illegal defeat devices that disable pollution control after 22 min were used.

Lastly, as with other national Dieselgate investigations in Europe, despite the Italian test results showing a clear presence of at least one illegal defeat device – in the hot engine restart scenario⁵ – no follow-up action or investigations were undertaken. The report does mention that the vehicles tested use different engine calibrations dependent on whether tests are done on cold or hot engine start, which should qualify as illegal under the EU defeat device rules but seems to be ignored.

The Fiat case is a telling proxy of what will happen if all enforcement action is left with national authorities. The tests were conducted at a time emissions tests were being scrutinised and still were unfairly biased. National testing regulators will not police carmakers to ensure compliance on the road and will not seek justice or protect public health. This clearly shows that the claims of some governments in the Council that the EU type approval system can be enforced nationally and does not require any EU oversight are futile and wrong.

3. Collusion or change?

Unless the rules of vehicle type approval are tightened, the current stalemate on emissions non-compliance and collusion with the car industry will persist. The above case around the Italian Dieselgate investigation shows what is going to happen with future enforcement and market surveillance if the system is left in the hands of the national regulators.

The action across Europe to date demonstrates a frightening level of regulatory capture by the automotive industry of national type approval authorities and their government masters. Either through unhealthy business relationships or a desire by member states to give an unfair advantage to their national car companies (e.g. the FCA Group); the system has been shown to be corrupt.

The EU urgently needs to create an independent authority to check how cars perform on the road (not lab), to levy sanctions and to control the way in which the national regulators carry out their duties. The Parliament will have a unique opportunity to improve the system starting with the committee vote on 9 February. But the hardest bit – negotiations with the member states – are yet to come. The outcome will show whether or not Europe can finally start testing cars independently and putting the needs of its citizens over the commercial gains of its industry.

Further information

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⁵ For more information on those, please see https://www.transportenvironment.org/sites/te/files/publications/2016_05_Dieselgate_continues_briefing.pdf