



EUROPEAN COMMISSION
ENTERPRISE AND INDUSTRY DIRECTORATE-GENERAL
 Industrial Innovation and Mobility Industries
 Automotive Industry

Brussels, **18 AVR. 2012**
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**NOTE TO THE ATTENTION OF THE MEMBERS
 OF THE TECHNICAL COMMITTEE ON MOTOR VEHICLES (TCMV)**

Subject: The supply shortage of an essential component in mobile air conditioning systems and its impact to the application of Directive 2006/40/EC in the automotive industry

You are aware of the existing situation of shortage in the supply of an essential component in mobile air conditioning systems (MACs) in the automotive industry and impact on compliance with the EU legislation. This situation has been leading to inconsistencies in the functioning of the internal market due to different legal interpretations by national authorities.

I refer to Directive 2006/40/EC¹, which stipulates that as of 1 January 2011 MACs of newly approved types of vehicles have to be filled with a refrigerant that has a global warming potential (GWP) of less than 150 (times the CO₂ GWP), to contribute to the reduction of greenhouse gases and their impact on climate.

The directive does not prescribe any particular refrigerant or system, but all EU car manufacturers have opted to use the so-called refrigerant HFO-1234yf in an international standardisation process that occurred in 2009 (SAE International). Due to existing patents, companies DuPont and Honeywell are the only worldwide suppliers that can produce the refrigerant HFO-1234yf.

Those companies have communicated in late 2011 that they will not be able to supply the full amount of this refrigerant needed to the car manufacturers until the 4th quarter of 2012. The reason is that there are problems with their production facilities. On the one hand, the production facility in Japan, which was disrupted by the events following the earthquake of 11 March 2011, produces only very small volumes of the refrigerant. On the other hand, the new facility for mass production in China, that should be ready for production at the beginning of 2012, is still not operating due to a new and unexpectedly cumbersome registration process to be completed. The suppliers confirmed to the Commission that this situation will be solved in the last quarter of 2012. This situation, in turn, has an effect of non-compliance of some new models of cars with the referred Directive.

¹ Directive 2006/40/EC of the European Parliament and of the Council of 17 May 2006 relating to emissions from air conditioning systems in motor vehicles and amending Council Directive 70/156/EEC

The European Commission has been informed that the national authorities have come up with different solutions to this problem. Some national authorities allow type-approval of non compliant types of vehicles, while others refuse it. As a consequence, some of the members of this Committee have written to the Commission (letter of 23 January 2012) requesting a clarification. This note intends to respond to that demand.

The European Commission has decided on 30 March 2012 that, in light of the exceptional circumstances, solely with respect to the shortage of the refrigerant, and for a limited period of time (until December 2012), the Commission will refrain from launching infringement procedures on its own initiative or when receiving complaints regarding non-conformity of vehicles manufactured before 31 December 2012 with the approval requirements.

This course of action is subject to the following conditions:

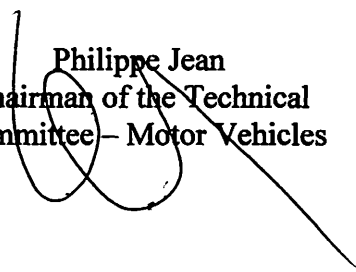
- (1) New types of vehicles will continue only to be type-approved if they are fitted with MAC systems that are compatible with Directive 2006/40/EC.
- (2) As long as the refrigerant HFO-1234yf is not available, and with a definitive limitation on 31 December 2012, manufacturers may continue to use the old refrigerant (so-called 134a) to fill new type-approved production vehicles, when this is technically possible.

The proposal to limit this period to 31 December 2012 is justified by the information provided by the suppliers to the Commission, as referred above, and the time needed for transportation of the gas to Europe.

For the implementation of this approach, all type-approval authorities in the Member States shall be informed by the members of the TCMV of these conditions to ensure a coordinated approach and the proper functioning of the internal market. The type-approval authorities in the Member States are responsible for monitoring the implementation of the measures referred above in what regards the request for type-approval of new types of vehicles that are fitted with MAC systems that are compatible with Directive 2006/40/EC. Furthermore, the authorities in the Member States that are responsible for the certification of production (technical services), are responsible for verifying that production conforms to the Directive after 31 December 2012, or as soon as the situation of shortage is solved, if before that date.

The concerned suppliers and manufacturers have been consulted. The impact on climate of the proposed course of action is expected to be limited since currently, and until 2017, the requirements are applicable only to new types of vehicles.

I underline that this is an exceptional situation, and the described line of action is the one that allows supporting the economic actors involved and ensuring the proper functioning of the internal market, while minimising the impact on climate.


Philippe Jean
Chairman of the Technical
Committee – Motor Vehicles