

***FRAMEWORK SERVICES CONTRACT
ENTR/2008/006/LOT 1***

**Ex-Post Evaluation and Impact Assessment
Study on Enhancing the Implementation
of the Internal Market Legislation
Relating to Motor Vehicles**

Ex-Post Evaluation Report

prepared for
DG Enterprise and Industry

RPA

June 2011

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Study on Enhancing the Implementation
of the Internal Market Legislation
Relating to Motor Vehicles***

Ex-Post Evaluation Report – June 2011

prepared for

DG Enterprise & Industry

by

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EXECUTIVE SUMMARY

1. Background

The EU's technical harmonisation legislation for motor vehicles, their components and systems has been progressively introduced since 1970, under the framework of Directive 70/156/EEC. Over the last 40 years, the nature of the regime has evolved from a system designed to allow free trade of vehicle components between Member States, to a system based on compulsory whole-vehicle type-approval (WVTA) for most categories of motor vehicles. As a result, the original framework directive has been replaced by Directive 2007/46/EC, establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles.

This internal market legislation for motor vehicles has been further updated over recent years and significantly revised, mainly with the aim of improving the internal market for motor vehicles, achieving simplification and promoting alignment with the international regulatory framework established by the United Nations' Economic Commission for Europe (UNECE).

Risk & Policy Analysts (RPA) has been contracted by DG Enterprise and Industry to support the European Commission Services in carrying out an ex-post evaluation of the current legal framework for the type-approval of motor vehicles (Module 1). This report presents the results of the ex-post evaluation.

2. Approach to the Evaluation

The approach to the evaluation was based on a combination of desk research and stakeholder engagement. Stakeholder engagement was undertaken through the use of questionnaires, which were developed in close co-operation with the Commission Services, for four groups of stakeholders: economic operators and their associations, technical services, national authorities and consumer organisations and other users. In total, over 300 organisations were contacted directly through email and invited to complete the on-line questionnaire. These organisations contacted include:

- 27 national authorities (one per Member State) (as well as the EFTA secretariat);
- 27 border control agencies (one per Member State);
- 27 RAPEX contacts (one per Member State);
- over 40 industry associations including ACEA, CLEPA and ETRMA (where the majority were national associations);
- 22 large passenger car manufacturers;
- 40 trucks and buses manufacturers;
- over 250 technical services (as listed on the Commission's website); and
- 3 consumer organisations.

In total, 28 responses were received to the on-line questionnaires:

- 5 from economic operators;
- 8 from technical services;
- 13 from national authorities; and
- 2 from consumer organisations.

This extremely small sample size of respondents, particularly for economic operators and technical services, is a significant constraint on the robustness of the findings and thus the extent to which the data can be used for policy making purposes. It is, however, the case that some of the information provided by respondents is in line with the findings (based on 40 valid responses) from the public consultation exercise (undertaken earlier by the Commission) and, as such, provides an additional check on their relevance.

3. Evaluation of Directive 2007/46/EC

Despite the limited number of responses received, it is clear from stakeholder responses that the objectives and scope of the Directive continue to be considered valid and **relevant** for coping with the current situation in the market and for the automotive sector. A high proportion of respondents across all stakeholder groups consider that the three objectives of the Directive are still relevant. The majority of national authorities and economic operators (as well as one consumer organisation) indicated that implementation of the legal framework has been satisfactory or highly satisfactory. However, around 50% of technical services (and one consumer organisation) believe it has not been satisfactory. Taking into account the objectives of the Directive, most respondents also consider that, over the last two years, type-approval and conformity assessment procedures have been effective or highly effective in preventing non-compliant or unsafe motor vehicles and/or vehicle products from being placed on the EU market. New needs and problem areas have, however, arisen since the Directive was adopted (e.g. problems arising from differences or exceptions in the national implementation of the Directive) and future market developments (e.g. a general shift toward emerging economies, ultra-low cost cars and more fuel efficient vehicles, including electric vehicles (EVs) and hybrids) need to be taken into account for the Directive to continue to remain relevant.

In terms of **effectiveness** of the legislation, the majority of respondents agreed that there is a problem with unsafe automotive products being placed on the EU market. Responses from technical services and national authorities indicate that these may account for less than 10% of automotive products on the market. The majority of the technical services and national authorities also recognise that there is a problem with non-compliant automotive products being placed on the EU market. Responses from technical services and national authorities indicate that these may account for over 10% of automotive products on the market.

An analysis of the 146 motor vehicle RAPEX notifications in 2010 indicates that around 4% of RAPEX notifications specified non-compliance as an explicit reason for recall, confirming a presence on the EU market of products and components that are not compliant. Inadequate pre-market controls, non-compliance and design issues were consistently identified across most respondents as the primary causes of recalls. These are clearly problem areas which need to be addressed to ensure that the Directive delivers optimal benefits, even if these weaknesses are not necessarily the result of a failure of the Directive (or legislation).

Despite this, the majority of economic operators responding considered that market surveillance/border controls had been effective. For national authorities, responses were evenly split between those considering surveillance/controls effective and those considering them to be ineffective and a surprisingly high proportion did not know if surveillance/border controls had been effective or ineffective. Both consumer organisations indicated that they did not know whether surveillance/border controls have been effective or not. Most respondents did not also consider that there are any shortcomings in the current legal framework or any market situations and developments potentially harming the free movement of motor vehicles and their components and/or creating obstacles to fair competition.

In terms of **efficiency** of the Directive, national authorities were, in general, not able to describe or quantify the costs incurred in relation to market surveillance activities and border controls. Despite this, increasing resources available for these tasks was identified as one potential area of improvement; another was establishing minimum standards and procedures for checking motor vehicles. While most economic operators consider that benefits would accrue from a scaling down of market surveillance activities, if these could be compensated by enhanced type-approval and conformity assessment activities, most technical services and national authorities did not agree. Instead, there is scope for improving the type-approval and conformity of production requirements/procedures, which could lead to a higher level of safety and environmental protection and an appropriate balance maintained between market surveillance and an improved type-approval system.

While organisations have incurred some costs from the Directive, most respondents did not experience any **impacts** that were unexpected. The majority of respondents have had positive experiences as a result of implementation of Directive 2007/46/EC. For SMEs, a key issue identified by most respondents is a lack of knowledge of the Directive and the type-approval process, although the initial costs of complying may be a more pertinent issue. Respondents also considered that the effectiveness of refusal or withdrawal of type-approval has been reduced by "type-approval hopping" (i.e. type-approval authorities who are more lenient are selected over other more stringent authorities) and "selective selection of type-approval authority" (i.e. products for which type-approval has been refused or withdrawn being presented to other technical services and/or type-approval authorities to obtain type-approval).

Most respondents agreed that Directive 2007/46/EC is **coherent**/consistent with other international regulations (i.e. UNECE Regulations), however, the responses by respondents suggest that there is scope for making further improvements at the implementation level and/or providing greater clarity for respondents.

None of the respondents considered that Member State actions alone would have been sufficient for addressing the issues arising in the internal market for automotive products. Respondents were also unanimous that action at EU level in the automotive field has produced clear benefits compared with action at Member State level only due to the scale and/or effectiveness of EU-wide action. Overall, the Directive has provided **added value**, in establishing a harmonised framework within the internal market for the automotive industry, by establishing the provisions for the sale and entry into service of parts and equipment intended for vehicles. It has also complemented and co-ordinated the actions of Member State authorities in ensuring that a high level of safety and environmental protection is provided to EU consumers.

Three key conclusions can be drawn from the ex-post evaluation of Directive 2007/46/EC:

- **the Directive has proven its relevance by addressing issues regarding type approval and conformity of production** and ensuring that vehicles and vehicle components/units put on the market provide a high level of safety and environmental protection. However, there is some concern that the scope may not be sufficient to address future market changes and problem areas (e.g. relating to national implementation of the Directive and/or gaps in the legislation to cover retrofit and aftermarket components, hybrid buses, etc.). Additional measures should be considered to ensure the continued relevance of the Directive, in particular by addressing identified problem areas (e.g. traceability of products and weak links in the procedures for ensuring conformity of production) which could hinder the achievement of the Directive's objectives in future;
- **there are still problems with unsafe and/or non-compliant automotive products being placed on the EU market.** The continued effectiveness of Directive 2007/46/EC will depend on the extent to which circumvention of the legislation by traders is addressed. This would require further efforts to be directed towards ensuring that there are adequate pre-market controls, as well as post-market controls to deal with non-compliance by manufacturers; and
- **the effectiveness of Directive 2007/46/EC relies significantly on the quality and performance of technical services** and also on the ability to ensure conformity of production. Actions which undermine the effectiveness of technical services (such as type approval hopping) also undermine the Directive's effectiveness.

4. Recommendations/Policy Options

Four key recommendations arise from this ex-post evaluation:

- The Commission should consider proposing specific measures to address the traceability of automotive products in the supply chain. Tracing the origin of non-compliant products encountered on market will be a key action in ensuring the continued effectiveness of the legislation as well as effective enforcement of Directive 2007/46/EC in the future.
- The Commission should consider proposing specific measures to address the problem of unsafe and non-compliant automotive products on the market. This should involve specifying the responsibilities of the national authorities (market surveillance authorities, border controls/custom authorities and technical services) that are involved in the enforcement of the Directive and the need for co-operation between these authorities.
- The Commission should consider proposing specific measures to improve the quality and performance of technical services, targeting problems relating to type-approval hopping as well as aiming at a more uniform level of stringency in the services they provide.
- The Commission should consider proposing measures to address the weak links in the procedures for ensuring conformity of production. The RAPEX data indicates that a significant proportion of vehicle recalls are due to defective products and design flaws and some of these may have been type-approved. Vehicles produced based on an approved type must comply with the applicable requirements in practice.

Four broad policy options have been identified for addressing a number of areas of attention¹ associated with the implementation and enforcement of Directive 2007/46/EC. The policy options are:

- Option 1: baseline scenario/do nothing option;
- Option 2: self-regulatory initiatives (undertaking awareness campaigns and/or voluntary agreements);
- Option 3: co-regulatory initiatives (joint actions by the Commission and the Member States); and
- Option 4: regulatory initiatives (amending the existing technical harmonisation legislation).

¹ These areas of attention were identified by the Commission Services in consultation with stakeholders (e.g. in working groups and through submissions) and have been verified in the public consultation as well as in the current evaluation.

Table 2 shows which of these policy options are considered to be relevant for addressing the five key areas of attention. In view of the limited number and representativeness of responses to the data collection exercise, all of these policy options (as identified in the roadmap) will be taken forward to the next stage of the study (i.e. the impact assessment stage).

Key Problem/Option	Option 1	Option 2	Option 3	Option 4
Traceability of products and clarifying the role and responsibilities of economic operators	YES	YES		YES
Responsibilities of and co-operation between the different national authorities	YES	YES	YES	YES
Weaknesses in the quality of the type-approval and conformity assessment tasks	YES	YES		YES
Difficulties in applying post-market safeguard procedures and the recall of vehicles	YES	YES		YES
Weak links in the procedures for ensuring conformity of production	YES	YES		YES

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1. INTRODUCTION

1.1 Background to Study

The EU's technical harmonisation legislation for motor vehicles, their components and systems has been progressively introduced since 1970, under the framework of Directive 70/156/EEC. Over the last 40 years, the nature of the regime has evolved from being a system designed to allow free trade of vehicle components between Member States, to a system based on compulsory whole vehicle type-approval (WVTA) for most categories of motor vehicles. This has resulted in the original framework directive being replaced by Directive 2007/46/EC² (also referred to as the WVTA Framework Directive).

This internal market legislation for motor vehicles has been further updated over the recent years and significantly revised, in line with the recommendations of the CARS 21³ High Level group, mainly with the aim of improving the internal market for motor vehicles, achieving simplification and promoting alignment with the international regulatory framework established by the United Nations' Economic Commission for Europe (UNECE). At the same time, new requirements have been introduced to increase the levels of safety, environmental protection and energy performance of motor vehicles.

However, as noted in the Study Specifications (see Annex 1), it is recognised that there is still room for improvement as far as the implementation and enforcement of the existing framework (summarised in Annex 2) is concerned. The Commission has, therefore, set up an initiative aimed at exploring appropriate ways and means to enhance the implementation and enforcement of the legal framework for the free movement of motor vehicles. This will involve a critical review of:

- the role and responsibilities of the different actors in the type-approval process and its implementation;
- the current procedures that have been put in place for verifying conformity of production, for the recall of vehicles and for the general safeguard measures; and
- the procedures that have been (or need to be put in place) to ensure an effective and proportionate enforcement of the legislation, including the role and responsibilities of different national authorities within the Member States.

A public consultation exercise was undertaken by the Commission from December 2010 to February 2011 in order to obtain views of stakeholders and the wider public on the proposed initiative to review the type-approval legislation for motor vehicles and for stakeholders to comment on the possible policy options that had been identified by various stakeholders. The exercise produced 40 valid responses.

² Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive).

³ CARS21 is the acronym for: Competitive Automotive Regulatory framework for the 21st Century.

1.2 Study Objectives

Following on from this public consultation, Risk & Policy Analysts (RPA) has been contracted by DG Enterprise and Industry to collect more information from specific stakeholder groups⁴ to undertake a two-fold study:

- an ex-post evaluation of the current legal framework for the type-approval of motor vehicles (Module 1); and
- an Impact Assessment on a possible policy initiative aimed at enhancing the implementation of the internal market legislation relating to motor vehicles (Module 2).

The purpose of the study is to:

- evaluate the effectiveness of the current legal framework; and
- assess the impact of the policy options which have been identified as possibly containing the potential to address the specific problems in the different areas identified and enhance the implementation and enforcement of the EU technical harmonisation legislation relating to motor vehicles.

In performing this assessment, due account will need to be given to the New Legislative Framework (NLF), by exploring whether and to what extent the solutions offered by the NLF toolbox can contribute effectively in addressing the issues at stake.

This report presents the results of the ex-post evaluation (Module 1).

1.3 Structure of this Report

The remainder of this report has been organised as follows:

- Section 2 provides an outline of our **approach to the evaluation**;
- Section 3 provides the **evaluation of the current legal framework**;
- Section 4 **identifies the policy options** based on the evaluation findings; and
- Section 5 provides the **conclusions, recommendations and next steps** for the study.

⁴ The stakeholder groups are: national authorities, technical services, consumer organisations and economic operators in the automotive manufacturing industry.

The Study Specifications are provided in Annex 1 and Annex 2 provides an overview of the regulatory framework for type-approval of motor vehicles. Also provided are detailed analyses of the responses of Economic Operators (Annex 3), Technical Services (Annex 4), National Authorities (Annex 5) and Consumer Organisations/Other Users (Annex 6); in total, 28 valid responses were received across all stakeholder groups. The work on case studies 1 (Problems and Challenges for SMEs) and 2 (Optimising Ex-ante Pre-market Controls) are presented in Annexes 7 and 8 respectively. Annex 9 provides an overview of the automotive industry and Annex 10 provides a list of respondents to the data collection exercise. Copies of the questionnaires used for stakeholder consultation are provided in Annex 11.

2. METHODOLOGY AND APPROACH TO EVALUATION

2.1 Overview

This section sets out the approach to the ex-post evaluation (Module 1). This approach was designed to meet the aims and objectives of the study and was split into a number of Tasks to be completed.

The key tasks under the ex-post evaluation were:

- validation of evaluation methodology;
- collecting and analysing the relevant data for the evaluation, as well as for the identification of policy options;
- submission of a draft of the Evaluation Report;
- Evaluation Report Meeting;
- drafting and submitting minutes of meeting; and
- submission and acceptance of the Evaluation Report.

2.2 Task 2.1: Validation of Evaluation Methodology

This task involves validating and refining the proposed methodological approach to the evaluation work.

The Study Specifications set out a number of evaluation questions which are to be addressed. Table 2.1 below sets out these evaluation questions, plus some additional questions and identifies where the answers to these questions were expected to come from.

Table 2.1: Evaluation Criteria, Questions and Sources of Data	
Criterion/Questions	Source of Data
Relevance	
1. What are the problems perceived by the EU automotive industry (vehicle manufacturers and suppliers of components and systems)?	Responses to evaluation questionnaire
2. How may the current situation change in the future in the light of the changing manufacturing base for automotive products or any other trends or changes in the global automotive market which may have an effect on the magnitude of the perceived problem?	Responses to evaluation questionnaire Discussions with SMEs (in case study context)
3. Are the objectives of the Directive (including scope) still relevant based on the answers to the above questions?	Responses to evaluation questionnaire
Effectiveness	
1. To what extent are unsafe automotive products or products with quality problems being placed on the Union market? What is their share in relation to the overall population of automotive products placed on the market?	Responses to evaluation questionnaire Desk research
2. Whether and to what extent are there automotive products being placed on the Union market without complying with the relevant requirements at all (by-passing or circumvention of type-approval and/or conformity of production procedures e.g. through parallel imports or by other means)?	Responses to evaluation questionnaire

Table 2.1: Evaluation Criteria, Questions and Sources of Data	
Criterion/Questions	Source of Data
3. What is the share of recall of motor vehicles and automotive products in relation to the estimated share of non-compliant or unsafe automotive products being placed on the EU market?	Desk research Responses to evaluation questionnaire
4. Are there any (and if so which?) shortcomings in the current legal framework or particular situations and developments in the EU internal market perceived by EU industry stakeholders as potentially harming the free movement of their products or their competitive position or creating obstacles to fair competition?	Responses to evaluation questionnaire
5. What is the number/share of automotive products which have given rise to difficulties during the type-approval or conformity of production procedures? What are the reasons and nature of these difficulties?	Responses to evaluation questionnaire Desk research
Efficiency/Cost-effectiveness	
1. What and how effective are the results of market surveillance efforts undertaken by the Member States in the field of motor vehicles and their parts and components as compared to the costs?	Responses to evaluation questionnaire
2. Whether and to what extent are there shortcomings that may prevent or restrict authorities to adequately address and solve the problems encountered with non-compliant or unsafe automotive products on their market? Are there related to limited resources?	Responses to evaluation questionnaire
3. Whether and to what extent could the costs for optimising the procedure for ex-ante pre-market controls (through type-approval and conformity of production) be out-weighed by a resulting and expected decrease in ex-post enforcement and mitigation efforts due to the risk of non-compliant or unsafe products finding their way to the market?	Responses to evaluation questionnaire Discussions with stakeholders in case study context
Impact	
1. Whether and to what extent may the competitive situation of the economic operators in the automotive industry who are respecting the rules suffer (e.g. loss of market share) from competitors placing non-compliant products on the market and whose origin may be difficult or impossible to trace?	Responses to evaluation questionnaire
2. What is the share of imported automotive products (in relation to the overall population of automotive products being placed on the market) and what is their origin (shares in terms of country of origin)? And trends (since Directive was in place)?	Desk research
3. Do SMEs face any specific problems and challenges? May future developments with regard to internal market problems in the automotive sector have a specific bearing on SMEs in the sector? What are the cumulative impacts of legislation on SMEs?	Responses to evaluation questionnaire Discussions with SMEs (in case study context)
4. To what extent have refused or withdrawn type-approvals been effective in mitigation of the established risks? Whether and to what extent the effectiveness of these actions may have been reduced by type-approval "hopping", i.e. products for which type-approval has been refused or withdrawn being presented to other technical services and/or type-approval authorities to obtain type-approval?	Responses to evaluation questionnaire
5. Are consumer organisations and NGOs particularly affected by the perceived internal market failures and if so to what extent and in which respect?	Responses to evaluation questionnaire
6. What impacts has the Directive had on third country manufacturers, e.g. by providing legal clarity and a level playing field for the common rules and procedures that will be applied in the Member States with regard to the surveillance of products placed on the market?	Responses to evaluation questionnaire

Table 2.1: Evaluation Criteria, Questions and Sources of Data	
Criterion/Questions	Source of Data
7. Have there been any other unexpected impacts on other stakeholders, such as surveillance authorities, registration authorities (e.g.: % of individual vehicle approvals?)	Responses to evaluation questionnaire
Coherence	
1. Is the Directive coherent with other international regulations, i.e. UNECE Regulations?	Responses to evaluation questionnaire
2. Are there any conflicts with regard to other EU policies or strategies, e.g. air emissions, end-of-life (ELV), noise pollution?	Responses to evaluation questionnaire
Added Value	
1. Why can Member States not achieve the objectives of the Directive by themselves?	Responses to evaluation questionnaire
2. Can the EU achieve the objectives of the Directive better?	Responses to evaluation questionnaire
3. Are voluntary initiatives by industry (e.g. “Manufacturers against Product Piracy”) a direct result of Directive 2007/46/EC or other Directives?	Responses to evaluation questionnaire Discussions with industry

2.3 Task 2.2: Data Collation

The purpose of Task 2.2 was to collate data from various sources in order:

- to inform the evaluation – with particular regard to the evaluation questions listed in Table 2.1;
- to provide further information on the importance of the issues identified in the Roadmap; and
- to provide some preliminary data on the possible policy options and the associated impacts.

The approach to the collection of data was based on a combination of desk research and stakeholder engagement. The prime route for stakeholder engagement was through questionnaires, which were developed in close co-operation with the Commission Services, for four groups of stakeholders: economic operators and their associations, technical services, national authorities and consumer organisations and other users.

The questionnaires were formulated using single, multiple choice and open questions, which were designed to elicit stakeholders’ views on various aspects of the current legal framework (including relevance, effectiveness, efficiency/cost-effectiveness, impact, coherence, added value and potential improvements). The use of multiple choice questions facilitated the speed and ease with which respondents could complete the survey.

Following acceptance of the questionnaires by the Commission Services, they were translated into an on-line format which could be accessed via RPA’s website, links to which were then sent to respondents (see Figure 2.1). An option was also provided to download the Questionnaire (in PDF format) and to send it to RPA via e-mail.

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Evaluation and Impact Assessment Study on Motor Vehicles

Introduction

At the end of 2010, a public consultation exercise was launched by the European Commission in order to obtain views of stakeholders and the wider public on the proposed initiative to review the type-approval legislation for motor vehicles and for stakeholders to comment on the possible policy options that had been identified by various stakeholders. Following from this, Risk & Policy Analysts has been contracted by DG Enterprise and Industry ([read letter from the Commission](#)) to collect more information from specific stakeholders groups to undertake a two-fold study:

- **Module 1: an Ex-post Evaluation** of the current legal framework for the type-approval of motor vehicles; and
- **Module 2: an Impact Assessment** on a possible policy initiative aimed at enhancing the implementation of the internal market legislation relating to motor vehicles (Module 2).

The four questionnaires below are mainly concerned with the ex-post evaluation (Module 1), although some questions relating to Module 2 are asked.

Questionnaire for Economic Operators:

- [Respond to the questionnaire on-line](#)
- [Read/download the questionnaire \(in pdf\)](#)

Questionnaire for Technical Services:

- [Respond to the questionnaire on-line](#)
- [Read/download the questionnaire \(in pdf\)](#)

Questionnaire for National Authorities:

- [Respond to the questionnaire on-line](#)
- [Read/download the questionnaire \(in pdf\)](#)

Questionnaire for Consumer Organisations and Users:

- [Respond to the questionnaire on-line](#)
- [Read/download the questionnaire \(in pdf\)](#)

(Please note that although the questionnaires are in English, answers may be provided in any EU language)

Please complete your questionnaire by: 29 April 2011

** Working off-line in pdf - Please note that some respondents have reported difficulties in saving pdf forms which have been completed off-line. Using Foxit Reader (a free pdf viewer) seems to avoid this problem - [Download Foxit Reader](#).*

Confidentiality

Please note that responses to the questionnaires will be handled in the strictest confidence and will only be used for the purposes of this study. In preparing our reports for the Commission (which, subsequently, may be published), care will be taken to ensure that specific responses cannot be linked to individual companies or organisations. If you have specific concerns about how your views will be treated, you can contact [Tobe Nwaogu](#) and we will be happy to discuss your concerns.

Figure 2.1: Access Page to Questionnaires

Links to the webpage shown above were sent by email to:

- **27 national authorities** across the EU (one national authority per Member State and an average of two contacts per authority) (as well as the EFTA secretariat);
- **27 border control agencies** (one per Member State);
- **27 RAPEX contacts** (one per Member State);
- over **40 industry associations** including ACEA, CLEPA and ETRMA (where the majority were national associations);
- **22 large passenger car manufacturers** (average of two contacts per company);
- **40 trucks and buses manufacturers**;
- **over 250 technical services** (as listed on the Commission’s website and including those with offices in different countries); and
- **3 consumer organisations.**

The industry associations were specifically requested to inform and urge their member companies to participate in the data collection exercise. For national authorities, technical authorities and consumer organisations, we also requested that they forwarded the email to the appropriate person(s), if the contacted person was not the right person or organisation in that country. We have over 300 “read receipts” as proof that the vast majority of these emails reached their intended target and some national associations have also confirmed that information about the study was indeed forwarded to their members. Over 100 SMEs were identified and contacted in the Czech Republic, Italy, Poland and the UK in their native language to provide information for the study.

Stakeholders were requested to respond by 29 April 2011 and were encouraged to contact the consultants should there be an issue with submitting the questionnaire on or before this date. All the stakeholders that responded requesting additional time were granted additional time to make a submission. As shown in Table 2.2 below, in total 28 responses were received to the on-line questionnaires.

Table 2.2: Responses Received to Questionnaire		
Stakeholder	Responses	Further Breakdown
Economic Operators	5	4 Manufacturers 1 Industry Association Respondents from four countries (Finland, Germany, Poland and Turkey)
Technical Services	8	8 Technical Service Organisations Respondents from six countries (Czech Republic, Germany, Hungary, Italy, Poland and Slovakia)
National Authorities	13*	10 Type-approval Authorities 1 Market Surveillance Authority 1 Vehicle Registration Authority 1 Combined Type-approval Authority, Market Surveillance Authority and Vehicle Registration Authority Respondents from 12 countries (Austria, Belgium, Germany, Hungary, Iceland, Italy, Latvia, the Netherlands, Slovakia, Sweden, Switzerland and the UK)
Consumer Authorities	2	2 Consumer organisations Located in Belgium
* Two late responses were received from the UK and Netherlands and their views have been taken on board, but not included in the statistical analysis		

Although we had hoped to hold general discussions with some of the key trade associations, the Commission was concerned about the potential perception that some parties were being given preferential treatment. Given the impossibility of holding direct discussions with all potentially interested parties, this approach was not pursued.

2.4 Task 2.3: Submission of Draft Evaluation Report

The Draft Evaluation Report was submitted on 17 May and in accordance with the Specifications:

- included the results of the evaluation;
- included the results with regard to the validity check of the policy options and identification of any other relevant internal market problem areas and associated policy options for addressing these;
- demonstrated what conclusions and results had been drawn and gave clear indications and detailed planning of the work to be carried out on Module 2;
- raised any problems encountered with sufficient information to permit reorientation for the tasks of Module 2 if appropriate and required; and
- included a draft executive summary.

2.5 Task 2.4: Evaluation Report Meeting

An Evaluation Report Meeting to discuss the Draft Evaluation Report was foreseen in the original proposal and as agreed at the kick-off meeting, the Commission intended to fix a date for a stand-alone meeting around 31 May with key respondents to discuss the findings of this Draft Evaluation Report.

However, due to other commitments on the Commission's side, it was not possible to hold this meeting. Instead, the Commission provided written comments to the draft evaluation report on 10 June and a conference call was held on 15 June to clarify these comments.

2.6 Task 2.5: Drafting of Minutes of the Meeting

Minutes of the conference call were submitted to the Commission within a week of the conference call.

2.7 Task 2.6: Re-submission and Approval of Evaluation Report

Based on the written comments to the Draft Evaluation Report and discussions at the conference call, the evaluation report was finalised.

2.8 Other Actions

The results of this report were presented to the Motor Vehicle Working Group (MVWG) in Brussels on 6 July.

3. EVALUATION OF THE CURRENT LEGAL FRAMEWORK

3.1 Introduction

The Study Specifications (see Annex 1) set out a series of detailed questions to be answered by the ex-post evaluation. These questions were grouped into different families that correspond to the evaluation criteria. Six of these evaluation criteria are considered to be relevant for this ex-post evaluation: relevance, effectiveness, efficiency, impact, coherence and added value. These evaluation criteria were set out in the Inception Report for this study and agreed with the Commission Services. For each question, a judgement criterion has been defined to assist with the evaluation and guide the literature review.

This section evaluates the specific impacts of Directive 2007/46/EC in relation to the selected evaluation criteria – based mainly on the 28 responses received from stakeholders.

3.2 Relevance

3.2.1 Matters to be Addressed

This criterion concerns the extent to which the objectives (including the scope) of the legislation address the needs of stakeholders and whether the objectives of the legislation are still appropriate given changed circumstances. Table 3.1 shows the questions, sources of information and judgement criteria relevant to the evaluation criterion of relevance.

Questions	Judgement Criteria	Sources of Data
1. Are the objectives of the Directive (including scope) still relevant?	Whether stakeholders consider that the objectives of the Directive are still relevant to them	Responses to the evaluation questionnaire
2. What are the problems perceived by the EU automotive industry (vehicle manufacturers and suppliers of components and systems)?	The extent to which stakeholders have had negative experiences associated with the Directive	Responses to the evaluation questionnaire
3. How may the current situation change in the future in the light of the changing manufacturing base for automotive products or any other trends or changes in the global automotive market which may have an effect on the magnitude of the perceived problem?	To what extent stakeholders consider that anticipated future market changes may affect the relevance of the Directive	Responses to the evaluation questionnaire Discussions with SMEs (in case study context) Literature Review

3.2.2 Outcome of the Analysis

Relevance of the Objectives of the Directive (including Scope)

As set out in the Directive, its three main objectives are:

- **to establish a harmonised framework (i.e. achieve the internal market)** containing the administrative provisions and general technical requirements for approval of all new vehicles within its scope and of the systems, components and separate technical units intended for those vehicles, with a view to facilitating their registration, sale and entry into service within the Community;
- **to establish the provisions for the sale and entry into service** of parts and equipment intended for vehicles approved in accordance with this Directive; and
- to ensure that new vehicles, components and separate technical units put on the market provide **a high level of safety and environmental protection** (based on prior control by an approval authority before they are offered for sale).

The vast majority of respondents consider that the objectives of Directive 2007/46/EC are still valid and relevant for the current situation in the market and for the automotive sector. As can be seen from Table 3.2, over 80% of respondents in each target group (except for economic operators in relation to the second objective) consider the three objectives of the Directive to still be relevant.

Table 3.2: Responses to the question - Are the objectives of the Directive still valid and relevant for coping with the current situation in the market and for the automotive sector?				
	Economic Operators	Technical Services	National Authorities	Consumer Organisations
1. To establish a harmonised framework (i.e. achieve the internal market)				
Still relevant	100%	100%	90%	100%
No longer relevant	0%	0%	0%	0%
Do not know	0%	0%	10%	0%
2. To establish the provisions for the sale and entry into service of parts and equipment intended for vehicles				
Still relevant	40%	83%	90%	100%
No longer relevant	20%	17%	0%	0%
Do not know	40%	0%	10%	0%
3. To provide a high level of safety and environmental protection				
Still relevant	100%	83%	90%	100%
No longer relevant	0%	17%	0%	0%
Do not know	0%	0%	10%	0%

Technical Services respondents unanimously indicated that the objective of establishing a harmonised framework is still relevant under the current market situation; the vast majority of Technical Services also consider the other two objectives to be relevant, indicating a high degree of continued relevance for all of the stated objectives. Similarly, national authorities indicated that they believe each of the objectives to still be relevant under the current situation.

All responding economic operators believe that the objective of the Directive in relation to establishing a harmonised framework and for ensuring a high level of safety and environmental protection is still relevant. However, opinion was more divided with respect to the relevance of the objective concerning the sale and entry into service of parts and equipment for vehicles within the scope of the Directive. With regard to this objective, one of the respondents stated that:

“there are still some national requirements that are valid and - according to our subsidiaries and authorities - we are obliged to install. For instance, [requiring] fire detectors in engine compartments intended for the French market is not required by any Directive or Regulation listed in Directive 2007/46/EC for M3 class I vehicles.”

This example, however, highlights a possible need for clarifying the scope of the existing legislation and/or further co-operation between the different national authorities in terms of having an effective and uniform enforcement policy across the EU, rather than a lack of relevance of the Directives’ objectives.

With regard to the **scope of the Directive**, the majority of respondents believe that the current scope of the Directive is still relevant to the current market and automotive sector situation, as shown in Table 3.3.

	Economic Operators	Technical Services	National Authorities	Consumer Organisations
Still relevant	80%	67%	70%	50%
No longer relevant	0%	17%	10%	50%
Do not know	20%	17%	20%	0%

Organisations which stated that the current scope is no longer relevant were invited to provide further details. Their responses are summarised below:

- one **technical service** considers that the provisions and products covered are still not sufficient and requirements are necessary for more components (e.g. wheels for heavy vehicle, servo steering, ball joints of suspension, etc.);
- a **national authority** also stated that the scope is not sufficient as *“the use of equivalent national rules (specifically for national small series and individual approvals) is still a problem for some countries”*;
- a similar point was made by a **consumer organisation** which stated that *“retrofit and aftermarket components have to be included as well. Additionally, a legal framework for national authorities (laboratories) for control of conformity of production is missing”*; and
- an **economic operator** who indicated that *“trolleybuses, pure electric buses, hybrid buses are, in some cases, out of the scope of Directive 2007/46/EC. Thus national requirements must be taken into consideration and that involves additional resources”*.

These suggestions may, however, reflect more the desire of some respondents to extend the benefits of the legislation and/or EU-level action to other areas, rather than a lack of relevance of the Directives' scope.

Problems and Negative Experiences of Stakeholders

Around half of all respondents had not experienced, or were not aware that they had been faced with, negative experiences as a result of implementation of Directive 2007/46/EC (as shown in Table 3.4).

	Economic Operators	Technical Services	National Authorities	Consumer Organisations
YES	75%	50%	40%	50%
NO	0%	33%	40%	0%
Do not know	25%	17%	20%	50%

Respondents who had experienced problems were asked to provide further details on the problems they had faced.

For **economic operators**, the specific issues raised as problem areas, resulting in negative experiences, were:

- the scope of “paper work” being roughly the same as previously. It is suggested that it takes too much time for national authorities to register the approval within the national systems for vehicles registration and there are plenty of additional documents to be provided to each country;
- the ETAES (European Type Approval Exchange System) which stores copies of type-approvals not working properly. Apparently, in one case, it took eight weeks after the signature of the approval to show the approval in the system (Transport Ministries of two countries were involved);
- exceptional transport vehicles not being sufficiently dealt with by the Directive;
- some countries requiring extra money to be paid (e.g. Italy requires the same money as for the national type-approval) and some countries (e.g. Spain) requiring additional audits to be done at the facility; and
- Regulation 385/2009 requiring a new certificate of conformity (CoC) format for passenger cars of the M1 category, for which there is no discernible benefit.

Technical Services also reported having negative experiences resulting from specific areas of the current legal framework, including:

- problems with the Vehicle Identification Number (VIN) system in the case of multi-stage approval;

- lack of harmonisation for the data content of documents, approvals and tests;
- missing requirements for important components;
- problems with the national implementation of the EU framework Directive;
- various exceptions (from the Directive) in some Member States;
- lack of regulations for motorbikes and tractors; and
- gaps in the legislation for vehicle parts and modifications.

Negative experiences highlighted by **national authorities** relate to:

- poor knowledge by SMEs of the approval process and correct data to provide in information folders and COC;
- some countries which give approval [individual approval] and registration to vehicles which do not comply with 2007/46 [but should], which has led to frustrated customers;
- lack of correspondence of vehicle weights between Directive 2007/46/EC, partial type-approval and CoC; and
- new Annex II of 2007/46/EC and GSR do not lead to a simplification of the administrative procedures. Legislation gets more and more complicated without identifying a benefit or even the need of a change.

Finally, a **consumer organisation** highlighted ‘*a lack of effective market surveillance and enforcement. Millions of automotive products have been recalled due to safety related defects. This is not the case only for vehicles, but also motorbikes and automotive components such as tyres and child car seats etc. Additionally the lack of harmonisation of the taxation system is an issue*’.

Overall, these issues reflect problems arising from the implementation of the Directive, as opposed to the Directive not being relevant to the problems on the market. In other words, these are not the problems which the Directive was originally meant to solve, rather problems which have arisen in the process of its implementation.

A more reflective view of the extent to which the Directive has addressed the problems which it was intended to address when it was introduced can be deduced from the level of satisfaction of respondents with its performance to date. As can be seen from Table 3.5, the vast majority of national authorities and economic operators indicated that implementation of the legal framework has been satisfactory or highly satisfactory. However, around 50% of technical services believe it has not been satisfactory.

	Economic Operators	Technical Services	National Authorities	Consumer Organisations
Highly Satisfactory	0%	0%	20%	0%
Satisfactory	100%	33%	70%	50%
Not satisfactory	0%	50%	0%	50%
Highly unsatisfactory	0%	0%	0%	0%
Do not know	0%	17%	10%	0%

The main focus to date in the technical harmonisation legislation governing the automotive sector has been on type approval and conformity of production. It is therefore important to note that the majority of respondents consider that, over the last two years, type-approval and conformity assessment procedures have been effective or highly effective in preventing non-compliant or unsafe motor vehicles and/or vehicle products from being placed on the EU market.

Table 3.6: Responses to the question - In the last two years, how effective have the results of type-approval and conformity assessment procedures been in preventing non-compliant or unsafe motor vehicles and/or automotive products from being placed on the EU market?

Response	Percentage of responses		
	Economic Operators	Technical Services	National Authorities
Highly Effective	25%	0%	0%
Effective	25%	75%	60%
Not Effective	25%	0%	0%
Do not know	25%	25%	40%

In our view, these results highlight that the specific objectives of the Directive when it was introduced have been achieved in a broadly satisfactory manner (at least for the majority of technical services and national authorities). However, new needs and problem areas (as reflected in the earlier discussion on problems and negative experiences of stakeholders) have also arisen since the Directive was adopted and future market developments (see below), relating to increased globalisation and competition, need to be taken into account for the Directive to remain relevant.

Impact of Future Market Changes on the Directive's Relevance

A review of the automotive industry market (i.e. manufacturing, trade, consumption and future trends) undertaken for this study (and set out in Annex 9) indicates that the main future global trends are:

- a general shift toward emerging economies, both in terms of demand and production;
- the further development of ultra-low cost cars (ULCCs); and
- a global shift toward smaller, more fuel efficient vehicles, including electric vehicles (EVs) and hybrids.

Against this background, two possible impacts on the Directive's relevance may be expected:

- the general shift of production towards emerging economies is likely to increase supply chain complexity and thus increase the importance of a robust legal framework that ensures product traceability, safety, etc. This anticipated development also highlights the increasing relevance of the current Directive, which establishes a framework that is consistent with UNECE regulations; and
- some electric vehicles are classified as quadricycles and are thus subject to Directive 2002/24/EC, while others fall under Directive 2007/46/EC. Should the

anticipated increase in numbers of electric vehicles materialise, it is likely that the proportion of road vehicles covered by Directive 2007/46/EC will decline.

Some problems have also become more prominent due to increased globalisation and competition, including a number of problem areas identified in the Draft Impact Assessment Roadmap:

1. traceability of products and responsibilities of the operators;
2. responsibilities of and co-operation between the different national authorities that may be involved in the problem;
3. weaknesses in the quality of the type-approval and conformity assessment;
4. difficulties in applying post-market safeguard procedures and the provisions for the recall of vehicles; and
5. weak links in the procedures for ensuring conformity of production.

Respondents were asked whether these problem areas and others identified by them (and by extension, the current legislative framework) would be affected by future developments or changes in the market. The results are shown in Table 3.7.

Area of attention	Importance will ...	Percentage of Responses		
		Economic Operators	Technical Services	National Authorities
Traceability of products and clarifying the role and responsibilities of economic operators	Significantly increase	0%	20%	22%
	Increase	33%	60%	33%
	No change	67%	20%	44%
	Decrease	0%	0%	0%
	Significantly decrease	0%	0%	0%
Responsibilities of and co-operation between the different national authorities within the Member States involved in the enforcement of the legislation (type-approval, recalls, market surveillance, border controls)	Significantly increase	0%	0%	22%
	Increase	0%	60%	11%
	No change	100%	40%	67%
	Decrease	0%	0%	0%
	Significantly decrease	0%	0%	0%
Quality and performance of technical services	Significantly increase	0%	0%	11%
	Increase	33%	40%	33%
	No change	67%	60%	33%
	Decrease	0%	0%	22%
	Significantly decrease	0%	0%	0%
Application of post-market safeguard measures and obligatory recall of vehicles (and components)	Significantly increase	0%	0%	0%
	Increase	0%	60%	44%
	No change	100%	40%	44%
	Decrease	0%	0%	11%
	Significantly decrease	0%	0%	0%
Verification procedures for ensuring conformity of production	Significantly increase	0%	0%	0%
	Increase	0%	60%	67%
	No change	100%	40%	33%
	Decrease	0%	0%	0%
	Significantly decrease	0%	0%	0%

The table shows that the majority of **national authority** respondents indicated that expected developments or changes in the market for motor vehicles is likely to either increase or significantly increase the importance associated with four of the five areas of attention. The only exception to this is the *'responsibilities of and co-operation between the different national authorities within the Member States involved in the enforcement of the legislation'*. The majority of organisations responding to this question believe that changes in the market will not affect the importance of this area. Only a small proportion of respondents suggested that there would be a reduction (with none indicating a significant reduction) in the importance of the identified areas of attention due to future market changes.

Specific issues raised by national authorities include:

- concerns regarding the further opening of the global market for technical services (TS). Conflicts between their role in producing test reports and competition between technical services to secure clients could lead to some technical services producing test reports of questionable quality; and
- increased harmonisation of the market, which will mean that each national authority will get more cases to manage (including cases in other countries).

Most **technical services** indicated that expected developments or changes in the market for motor vehicles are likely to increase the importance associated with three of the five areas of attention; the difference between these respondents and those that predict no change is, however, marginal (60:40). A marginal difference (60:40) in favour of no change can also be seen in the area of *"quality and performance of technical services"*. The clearest indication is in the area of *'traceability of products and clarifying the role and responsibilities of economic operators'*, for which 80% of respondents expect an increase or significant increase in importance due to market changes.

The **economic operators** who responded expect no changes to occur with regards to three of the five areas of attention. However, for the *quality and performance of technical services* as well as for the *traceability of products and role and responsibilities of operators*, one of the three responses expects an increase in importance due to market changes.

Both consumer organisations agreed that expected developments/changes in the market for motor vehicles are likely to increase the importance of each of the identified areas of attention, with one suggesting this would increase and the other indicating that this would significantly increase. Respondents were given the opportunity to explain their answers, with one consumer organisation stating that:

'increased globalisation of automotive (component) production, increases need for better controlled type-approval regime and harmonised approach across EU with uniform stringency. Increased vulnerability to non-compliant products gives rise to increased burden on national authorities and risk of exploitation of 'weak points' for EU market access, unless the approach is more tightly controlled and better coordinated, supported by appropriate resources'.

3.2.3 Summary of Findings

From the above discussion, it is clear that the objectives and scope of the Directive continue to be valid and relevant for coping with the current situation in the market and for the automotive sector. This conclusion is supported by most respondents, who believe that the existing legal framework is relevant to the current situation both in terms of its objectives and its scope. The Directive has also proven its relevance by addressing issues regarding type approval and conformity of production and ensuring that vehicles and vehicle components/units put on the market provide a high level of safety and environmental protection. Improvements can, however, be made in this regard and some respondents have also expressed concern about the scope not being sufficient to address future market changes and problem areas.

Overall, in terms of its relevance, the Directive is rated as **good/very good (+/++)**; where this reflects the relevance to date, but there are concerns regarding future relevance.

3.2.4 Recommendations from the Analysis

The objectives of the Directive appear to adequately address respondents' needs and therefore no policy action is necessary. However, it will be important to take pre-emptive measures to ensure the continued relevance of the Directive, in particular by addressing the problem areas which could hinder the achievement of the objectives in future.

3.3 Effectiveness

3.3.1 Matters to be Addressed

This criterion concerns the extent to which the legislation’s objectives have been achieved, or are expected to be achieved, taking into account their relative importance. More specifically, it focuses on the effectiveness of Directive 2007/46/EC in relation to non-compliant products, unsafe products and recalls. Table 3.8 shows the questions, sources of information and judgement criteria relevant to the evaluation criterion of effectiveness.

Questions	Judgement Criteria	Sources of Data
1. To what extent are unsafe automotive products or products with quality problems being placed on the Union market? What is their share in relation to the overall population of automotive products placed on the market?	Proportion of unsafe/ poor quality products on the market; extent to which stakeholders have concerns about issue of unsafe automotive products	Responses to the evaluation questionnaire Desk research
2. Whether and to what extent are there automotive products being placed on the Union market without complying with the relevant requirements at all (by-passing or circumvention of type-approval and/or conformity of production procedures e.g. through parallel imports or by other means)?	Proportion of non-compliant products on the market; extent to which stakeholders have concerns about issue of non-compliant automotive products	Responses to the evaluation questionnaire Desk research
3. What is the share of recall of motor vehicles and automotive products in relation to the estimated share of non-compliant or unsafe automotive products being placed on the EU market?	Extent of products recalls over time; extent to which stakeholders have concerns about recalls	Responses to the evaluation questionnaire Desk research
4. Are there any (and if so which?) shortcomings in the current legal framework or particular situations and developments in the EU internal market perceived by EU industry stakeholders as potentially harming the free movement of their products or their competitive position or creating obstacles to fair competition?	Extent of stakeholder concern about the shortcomings in legal framework and market developments as they impact on competition	Responses to the evaluation questionnaire
5. What is the number/share of automotive products which have given rise to difficulties during the type-approval or conformity of production procedures? What are the reasons and nature of these difficulties?	Proportion of automotive products giving rise to difficulties for technical services during type approval	Responses to the evaluation questionnaire
6. What and how effective are the results of market surveillance efforts undertaken by the Member States in the field of motor vehicles and their parts and components as compared to the costs?	Proportion of stakeholders considering market surveillance efforts to be effective	Responses to the evaluation questionnaire

In addressing the questions above, we have drawn from a combination of respondents’ views and a literature review. The views of technical services and national authorities have, however, been given prominence in this section, not only

because of their role in the system but also, as can be seen from Table 3.9, their views are based largely on their direct experience and are thus considered to be most robust.

	Economic Operators	Technical Services	National Authorities
Personal industry experience/expertise	100%	25%	10%
Experience of your organisation	50%	75%	100%
Research carried out by your organisation	25%	0%	20%
Research carried out by other organisations	0%	0%	0%
Anecdotal evidence	0%	25%	10%

Note: Percentages do not add up to 100% as some respondents have selected more than one option.

3.3.2 RAPEX

In order to ensure a consistent level of consumer protection and safety across the EU, as well as uniform enforcement of general product safety legislation, a system of rapid exchange of information (RAPEX⁵) was set up in 2001 to coordinate actions relating to dangerous products across the EU. RAPEX acts as the information node and coordinator among the Member State competent authorities for product safety issues. Among other things, RAPEX and these competent authorities are responsible for ensuring rapid, appropriate and effective motor vehicle recalls when a potential safety defect resulting from design and/or construction has been identified, either by manufacturers, importers, distributors or consumers. When a national competent authority becomes aware of such a safety issue, it notifies RAPEX, which then publishes the information and disseminates it to competent authorities in other Member States. These can then check whether the affected products are on their national markets and publicise a recall if required.

A review of recent RAPEX annual reports⁶ indicates that motor vehicles (including motorcycles) account for around 10-15% of “*notifications of products presenting a serious risk*” as shown in Table 3.10

Year	No. of notifications of products presenting a serious risk	No. of notifications of ‘Motor Vehicle’ products presenting a serious risk	% Notifications associated with Motor Vehicles
2010	1963	175	9%
2009	1699	146	9%
2008	1545	160	10%
2007	1355	197	15%
2006	924	126	14%

Source: RAPEX Annual Reports
Note: Figures include motorcycles

⁵ http://ec.europa.eu/consumers/safety/rapex/index_en.htm

⁶ Available from: http://ec.europa.eu/consumers/safety/rapex/stats_reports_en.htm#annual

To explore the nature of the RAPEX notifications for motor vehicles in more detail, those for 2010 were reviewed in more detail. Of the 175 notifications listed in Table 3.10, 146 were considered relevant – most of the remainder were associated with motorcycles.

In the vast majority of cases (over 82%), the notification was linked to a risk of injury, with the remaining cases being fire risks.

The review of the RAPEX notifications (for 2010) also enabled some judgement to be made of the likely cause of the notification. Although there are inherent uncertainties, it would appear that most involved defective products – as shown in Table 3.11.

Likely Cause	Number of notifications	% notifications
Production/QA	21	14.4%
Non-compliant Products	5	3.4%
Defective Products	77	52.7%
Design Flaws	25	17.1%
Not known	18	12.3%

Source: Review of RAPEX entries for motor vehicles (excluding motorcycles) in 2010

It cannot be determined with certainty from RAPEX whether the defective automotive products (components) which warranted a notification were in compliance with the Directive or not⁷. However, it does appear possible that products may appear on the market which conform with the Directive but are considered unsafe by national authorities.

Nearly all of the notifications involving motor vehicles on RAPEX are associated with a vehicle recall. However, there are relatively few RAPEX entries prior to 2006 and it was unclear whether the more recent RAPEX notifications fully reflected the numbers of vehicle recalls.

Although there does not appear to be a centralised detailed EU-wide database for recalls (apart from RAPEX), records from national competent authorities can be used to analyse automotive recall trends. Ideally, these should be from Member States with large markets, with a wide range of vehicles in use – as typified by the UK.

For motor vehicles in the UK, the competent authority is the Vehicle and Operator Services Agency (VOSA), which maintains a database of all motor vehicle recalls in the UK since 1992. The number of UK recalls per year from 1992 to 2010 is given in Figure 3.1.

⁷ Article 29 of the Directive recognises that new vehicles or vehicle components/units which are in compliance with the applicable requirements or properly marked may present a serious risk to road safety, or seriously harm the environment or public health. Article 30 also recognises that vehicles or vehicle components/units accompanied by a certificate of conformity or bearing an approval mark may not conform to the type which was approved.

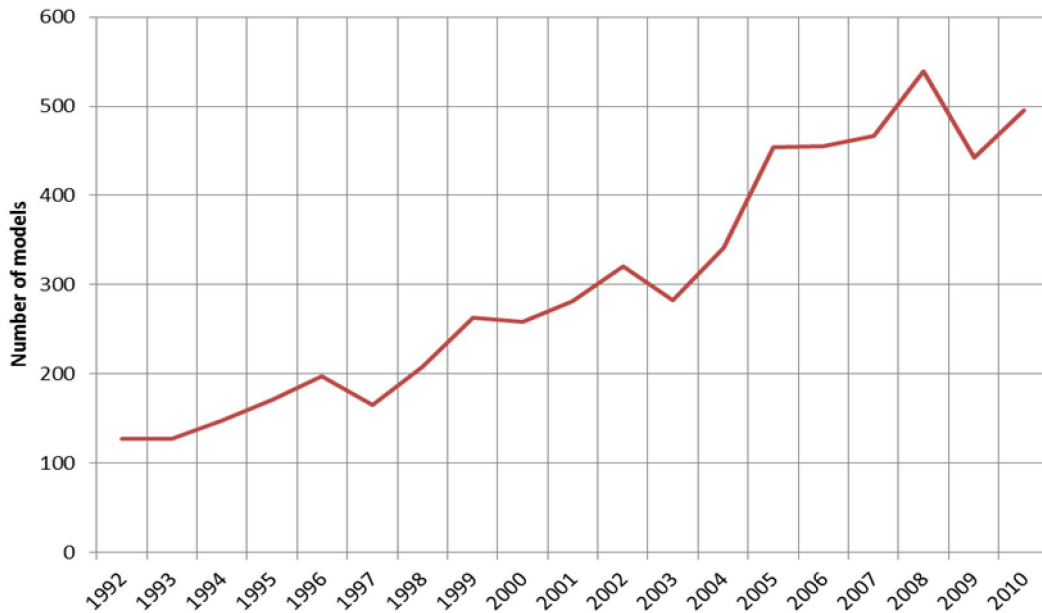


Figure 3.1: UK motor vehicle recalls, 1992-2010 (Source: VOSA)

Note: The number of recalls shown is the number of models recalled. As several models will often share the same components, a single fault can lead to a number of separate recall actions when applied to all the affected models. For this reason the number of faults leading to recall actions is significantly lower than the number of actions listed. For example, inspection of recalls (for cars and vans) listed by VOSA in 2010 suggests that the number of faults was less than 150 – which is consistent with the 146 RAPEX notifications for 2010 (excluding motorcycles) considered above.

Figure 3.1 shows that the number of vehicle recalls in the UK rose steadily and significantly since 1992 until around 2005 – since when the trend is less clear. As this pattern might be explained simply through increases in new vehicle registrations, Bates *et al* (2004) created an index of “recall incidents per 100,000 new vehicle registrations”. However, they found the pattern still holds with normalised data, as shown in Figure 3.2. The same pattern is also clear using data from KBA (Kraftfahrt-Bundesamt, the German Federal Motor Transport Authority) for German motor vehicle recalls over the same period, as shown in Figure 3.3.

Bates *et al* (2004)⁸ and Bandyopadhyay (2010) offer several hypotheses that might explain the continuing increases in motor vehicle recalls, including:

- decreasing product development lead times resulting in more faults;
- more complex supply chains resulting in more faults;
- a greater propensity to recall from manufacturers due to, for example, a greater fear of litigation; and

⁸ Bates *et al* (2004): **Motor Vehicle Recalls: Trends, Patterns and Emerging Issues**, Working Paper No. 295, ESRC Centre for Business Research, University of Cambridge, December 2004, downloaded from University of Cambridge Internet site <http://www.cbr.cam.ac.uk/pdf/wp295.pdf>

- using product platforms and commonality in product design, which while saving supply chain costs and reducing inventory, also leads to using same component or process across multiple products which can cause the larger scale of recalls in case there is a problem with the common component⁹.

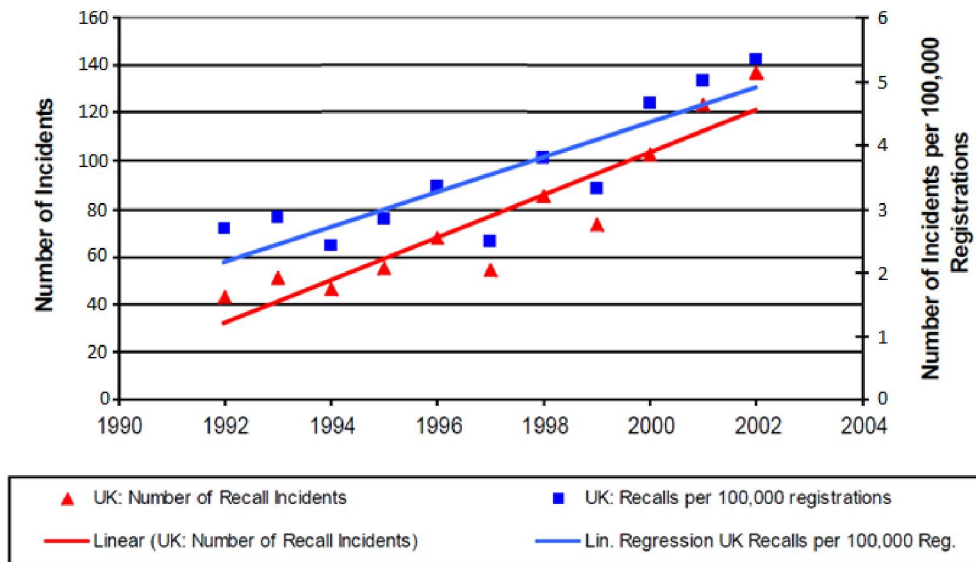


Figure 3.2: UK motor vehicle recall incidents and trends, 1992-2002

Source: Bates et al (2004)

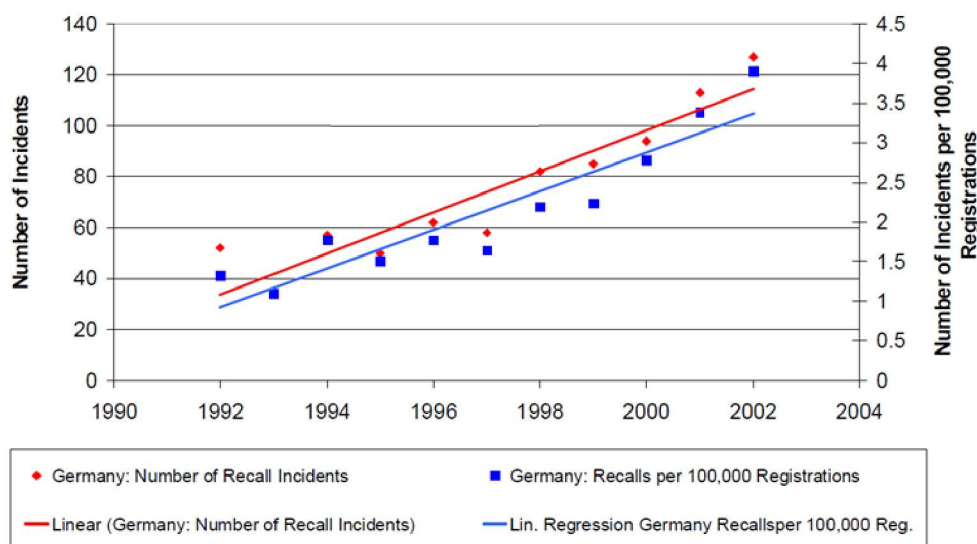


Figure 3.3: German motor vehicle recall incidents and trends, 1992-2002

Source: Bates et al (2004)

⁹ Bandyopadhyay P (2010): **An Exploratory Study on Motor Vehicles Recall in the US - Trend Analysis of Recalls Due to Commonality in Vehicles Design**, May 29, 2010. See http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1617704

Summary

The review of RAPEX and associated data on recalls indicates that:

- motor vehicle faults are a significant contributor to RAPEX notifications of products presenting a serious risk to consumers;
- although the numbers of vehicle recalls appear to have increased steadily from the early 1990s, the trend post-2005 is not clear;
- vehicle recalls are listed on the RAPEX system and by national authorities; and
- the number of faults resulting in a vehicle recall (excluding motorcycles) is around 150 per year (based on data from national authorities and from RAPEX)

3.3.3 Outcome of the Analysis

Unsafe Automotive Products

In view of the analysis presented above, it is perhaps unsurprising that the majority of respondents agreed that there is a problem with unsafe automotive products being placed on the EU market. While some technical services and national authorities believe this to be a serious problem, around half of all respondents believe the problem to be minimal. Consumer organisations consider the issue of unsafe products to be a serious or highly serious problem.

Table 3.12: Responses to the question - In your opinion, how serious is the issue of unsafe automotive products being placed on the EU market?

	Economic Operators	Technical Services	National Authorities	Consumer Organisations
Highly Serious	25%	0%	10%	50%
Serious	0%	50%	20%	50%
Exists, but minimal	75%	50%	40%	0%
Not a problem	0%	0%	10%	0%
Do not know	0%	0%	20%	0%

Of those national authorities that consider the problem of unsafe products to be serious, around half of these believed that unsafe automotive products account for less than 10% of automotive products on the market, while the other half believe that unsafe automotive products account for more than 25% of automotive products, as shown in the Table 3.13.

Table 3.13: Responses to the question: If “highly serious” or “serious”, what is the percentage of unsafe automotive products currently on the EU market?

	Technical Services	National Authorities
Less than 1%	0%	0%
1 – 5%	50%	0%
5 – 10%	0%	50%
10 – 25%	50%	0%
More than 25%	0%	50%

The technical services who thought the problem of unsafe products to be serious provided lower estimates than the national authorities, with half of the technical services indicating that unsafe products accounted for less than 5% of automotive products on the market and the remaining half indicating they accounted for 10 – 25% of products on the market.

Overall, it can be considered that there is still a problem with unsafe automotive products being placed on the EU market. While their exact share in relation to the overall population of automotive products placed on the market is not known, the responses from technical services and national authorities indicate that these may account for **less than 10%**¹⁰ of automotive products on the market.

Non-compliant Automotive Products

The majority of the technical services and national authorities recognise that there is a problem with non-compliant automotive products being placed on the EU market (non-compliance includes by-passing or circumvention of type-approval and/or conformity of production procedures, e.g. through parallel imports). However, while most technical services believe this to be serious problem, national authorities are split between those who consider the problem to be highly serious or serious and those who do not. Consumer organisations consider the issue of non-complaint automotive products to be a serious or highly serious problem.

Table 3.14: Responses to the question - In your opinion, how serious is the issue of non-compliant automotive products being placed on the EU market?

	Economic Operators	Technical Services	National Authorities	Consumer Organisations
Highly Serious	50%	0%	20%	50%
Serious	0%	75%	30%	50%
Exists, but minimal	50%	25%	50%	0%
Not a problem	0%	0%	0%	0%

There were also varying views on the extent of the problem. Although the majority of national authorities (who consider it is a serious problem) believe that non-compliant automotive products account for less than 10% of products on the market, some respondents (including economic operators) consider that non-compliant automotive products account for more than 25% of automotive products. Of note is that in relation to the RAPEX notifications, non-compliant products were only specifically identified as the cause in less than 4% of cases (see Table 3.11).

¹⁰ 50% of national authorities and technical authorities believe unsafe automotive products account for less than 10% of automotive products on the market. While 50% of them also believe the figure is more than 10%, this is balanced out by the fact that at least 50% of respondents think it is a minimal problem, rather than a serious problem. Variations in estimates at the Member State level are also likely to exist.

	Technical Services	National Authorities
Less than 1%	0%	25%
1 – 5%	33%	0%
5 – 10%	0%	50%
10 – 25%	33%	0%
More than 25%	33%	25%

Recalls

As outlined in the previous sub-section, there appear to be about 150 faults per year on motor vehicles (excluding motorcycles) which result in a RAPEX notification and a vehicle recall. As already discussed, a single fault may result in several different models being recalled which, in turn, may involve fewer than 10 vehicles or 100,000 or more vehicles.

The views of respondents on the issue of recalls are also relevant for assessing the effectiveness of the legislation. On the issue of vehicle or component recalls, while most technical services believed this was a “minimal” problem, most national authorities and consumer organisations considered it to be a “serious” problem.

	Economic Operators	Technical Services	National Authorities	Consumer Organisations
Highly Serious	0%	0%	10%	
Serious	0%	0%	60%	100%
Exists, but minimal	75%	100%	30%	
Not a problem	0%	0%	0%	
Do not know	25%	0%	0%	

When asked to indicate the two primary causes of recalls, three issues were identified consistently across most respondents (including economic operators). As shown in Table 3.17, these are:

- inadequate pre-market controls;
- non-compliance; and
- design issues.

These findings are not inconsistent with the data provided in Table 3.11 which suggested that most RAPEX notifications (vehicle recalls) were associated with defective products (53%), design flaws (17%) and production/QA (14%).

	First choice		Second choice		All choices	
	Technical Services	National Authorities	Technical Services	National Authorities	Technical Services	National Authorities
Inadequate pre-market controls	25%	25%	67%	14%	43%	20%
Non-compliance issues	25%	25%	0%	14%	14%	20%
Unsafe automotive products	0%	25%	0%	29%	0%	27%
Design issues	25%	25%	33%	0%	29%	13%
Surveillance issues	25%	0%	0%	29%	14%	13%
Other	0%	0%	0%	14%	0%	7%

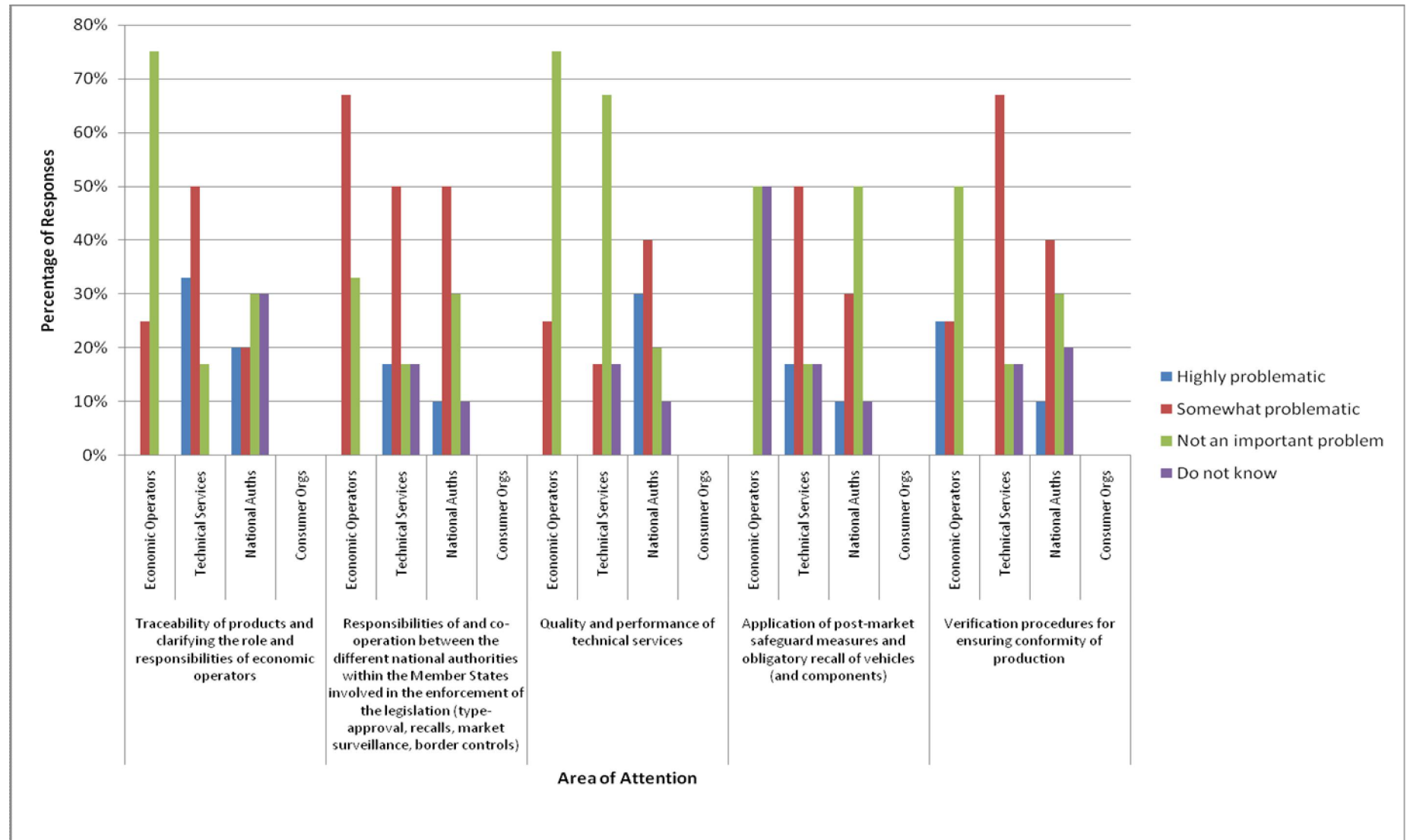
It is difficult to establish the share of motor vehicles and automotive product recalls in relation to the estimated share of non-compliant or unsafe automotive products being placed on the EU market - not least because the problems are interlinked, with non-compliant and unsafe products leading to recalls.

Shortcomings in the current legal framework or particular situations and developments harming the free movement of their products and competition

A number of areas have been identified as possibly giving rise to, or contributing to, problems encountered with automotive products on the market which either do not comply with the requirements or which can still pose a risk to safety or to the environment despite being compliant. These areas of attention have been identified as having the potential to influence the effective implementation of the EU type-approval legislation for automotive products. Respondents were asked to indicate the extent to which these areas are considered to be problematic.

Of the five areas, *traceability of products and clarifying the role and responsibilities of economic operators* is considered the most problematic by **technical services**, with a third rating it as “highly problematic” and a half as “somewhat problematic”. Half of respondents also view the *responsibilities of and co-operation between different Technical Services* within the Member States involved in the enforcement of the legislation and the *application of post-market safeguard measures and obligatory recall of vehicles (and components)* as “somewhat problematic”, with a further 17% viewing both as “highly problematic”. While the majority of respondents view *verification procedures for ensuring conformity of production* as “somewhat problematic”, none view it as “highly problematic”. The majority of Technical Services do not view the *quality and performance of Technical Services* as problematic.

Table 3.18: Responses to the question: Five areas of attention have been identified as having the potential to affect the effective implementation of the EU type-approval legislation for automotive products. Indicate the extent to which you consider these areas to be problematic					
Area of attention	Response	Percentage of responses			
		Economic Operators	Technical Services	National Auths	Consumer Orgs
Traceability of products and clarifying the role and responsibilities of economic operators	Highly problematic	0%	33%	20%	100%
	Somewhat problematic	25%	50%	20%	0%
	Not an important problem	75%	17%	30%	0%
	Do not know	0%	0%	30%	0%
Responsibilities of and co-operation between the different national authorities within the Member States involved in the enforcement of the legislation (type-approval, recalls, market surveillance, border controls)	Highly problematic	0%	17%	10%	100%
	Somewhat problematic	67%	50%	50%	0%
	Not an important problem	33%	17%	30%	0%
	Do not know	0%	17%	10%	0%
Quality and performance of technical services	Highly problematic	0%	0%	30%	100%
	Somewhat problematic	25%	17%	40%	0%
	Not an important problem	75%	67%	20%	0%
	Do not know	0%	17%	10%	0%
Application of post-market safeguard measures and obligatory recall of vehicles (and components)	Highly problematic	0%	17%	10%	100%
	Somewhat problematic	0%	50%	30%	0%
	Not an important problem	50%	17%	50%	0%
	Do not know	50%	17%	10%	0%
Verification procedures for ensuring conformity of production	Highly problematic	25%	0%	10%	100%
	Somewhat problematic	25%	67%	40%	0%
	Not an important problem	50%	17%	30%	0%
	Do not know	0%	17%	20%	0%



On the other hand, most **economic operators** do not regard *traceability of products and clarification of their role* and the *quality and performance of technical services* as important problems. Similarly, there is no indication that the *application of post-market safeguard measures and obligatory recall of vehicles (and components)* pose an important problem for them. On the other hand, the *responsibilities of and co-operation between national authorities within EU Member States* is perceived to be somewhat problematic.

The majority of **national authorities** either did not know the extent to which *traceability of products and clarifying the role and responsibilities of economic operators* has on affecting the implementation of EU type-approval legislation for automotive products or did not consider this an important problem. Most respondents indicated that the *responsibilities of and co-operation between different national authorities within Member States* was somewhat problematic in affecting the implementation of EU type-approval legislation. This was also the case for *quality and performance of technical services* and *verification procedures for ensuring conformity of production*. Most of the respondents indicated that the *application of post-market safeguard measures and obligatory recall of vehicles (and components)* was not an important problem.

Both consumer organisations indicated that each of the five areas of attention is **highly problematic** in terms of affecting the effective implementation of the EU type-approval legislation for automotive products. Further details on the reasons for these answers can be found in Annex 6.

While most respondents did not consider that there were any shortcomings in the current legal framework potentially harming the free movement of motor vehicles and their components and/or creating obstacles to fair competition, as shown in Table 3.19, some shortcomings were identified relating to:

- a lack of detailed information for hybrid, pure electric vehicles, and trolleybuses;
- inter-system vehicle movement (i.e. US-EC, China-EC);
- circumvention of EC law by some importers (importing a high number of vehicles intended for third markets) in cooperation with or due to low experience of some technical services;
- differences in treatment of manufacturers by various technical services; and
- for sellers and resellers, the distortion between European approval and individual approval in some European countries is an obstacle to fair market. The taxation in some European countries may lead to specific approval and this approval may not make sense in another national context (other taxation).

	Economic Operators	Technical Services	National Authorities	Consumer Organisations
YES	33%	25%	20%	100%
NO	33%	50%	50%	0%
Do not know	33%	25%	30%	0%

Similarly, while most respondents did not consider that there were any market situations or developments in the EU potentially harming the free movement of motor vehicles and their components and/or creating obstacles to fair competition, some respondents identified issues relating to:

- “accepting approvals with additional transposition operations”;
- “products that are not compliant with the EC directive even though they have the e-number on the product and products sold at low prices”;
- “the single approval for mass produced vehicles outside Europe potentially lowering the number of companies that accept the responsibilities of a manufacturer”;
- “approval of longer semi-trailers (e.g. KögelBigMaxx) permitted on a trial basis (time-limited?) in Germany is distortionary to competition by non-German hauliers, and incompatible with 97/27/EC”;
- “harmonisation of taxation”; and
- “a lack of harmonised max. N3/O3 height, meaning that significantly higher capacity HGV trailers are permitted in the UK”.

Table 3.20: Responses to the question - Are there any market situations or developments in the EU potentially harming the free movement of motor vehicles and their components and/or creating obstacles to fair competition?				
	Economic Operators	Technical Services	National Authorities	Consumer Organisations
YES	25%	0%	20%	50%
NO	25%	25%	50%	
Do not know	50%	75%	30%	50%
Total	100%	100%	100%	

Respondents also indicated that the following issues may lead to the Directive losing its effectiveness:

- competition between technical services leading to some technical services producing test reports of questionable quality (this relates to both individual and other approvals);
- issues with assigning responsibility for the vehicle (recall, technical data, etc.) when there is no manufacturer according to the definition of Directive 2007/46/EC but there is a VIN code; and
- “for the second stage (approval in second stage) there is a transitional period that we need when the basis vehicle is not approved following 2007/46”.

Specific issues identified by the **consumer organisations** include:

- a lack of accountability and reproach to authorities where a product has wrongly been granted type-approval;
- varying stringency, surveillance and enforcement ambition levels in neighbouring countries;

- the exploitation by economic operators of the well-known fact that some technical services are more stringent than others. Clearly some technical services are reliant on operators for client base, which risks influencing quality. Lack of independent (perhaps EU) service to ensure harmonised application;
- large variation in standards and ambition across EU Member States;
- no harmonised dataset for EU to identify significant trends, e.g. concerns about adherence to safety or environmental standards for certain models/runs. (As a parallel, Toyota acceleration problem was identified due to a number of cases throughout US fleet - but EU does not collect data which might identify statistically significant trends in EU fleet, which may not be spotted at national market level);
- large variations in standards, and especially resources, between EU countries and over time (e.g. scaling back conformity of production checks during financial crisis);
- a lack of market surveillance and enforcement is a big concern. Pirated products enter the Internal Market easily and even though they are detected, different national authorities do not take action. For example the case of the child restraint systems that have entered Hungary with false approval mark/number from another country. The country was informed about the unsafe child restraint system (CRS), but did not take any action as the CRS was sold in another country. They would have dealt with it in case it enters their territory;
- in the case of recalls, consumers are not informed efficiently (*millions of Toyota vehicles have been recalled, but many owners didn't hear about it, in particular immigrants with language problems are not aware when their car is recalled*); and
- verification procedures for ensuring conformity of production also shows failures because of the frequent change of design and requirements, which results in lack of time for durability tests.

Number/share of automotive products which have given rise to difficulties during the type-approval or conformity of production procedures

Table 3.21 shows respondents' estimates of the percentage of automotive products that have given rise to difficulties during the type-approval process over the last three years. The majority (62.5%) of respondents estimate this percentage to be between 20% and 40%; of the remaining respondents, equal proportions estimate it to be between 10% and 20% and between 40% to 60% range. Overall, it is clear that a high proportion of automotive products give rise to difficulties during type approval. This may, however, reflect the relationship between some manufacturers and technical services, where the technical services provide an on-going check against the relevant standards for manufacturers during the development process, as opposed to the completed product being brought for a final approval.

Table 3.21: Percentage of responses to the question: What is your estimate of the percentage of automotive products that has given rise to difficulties during the type-approval or conformity assessment of vehicles and components in the last three years?

	Technical Services
Less than 10%	0.0%
10 to 20%	12.5%
20 to 40%	62.5%
40 to 60%	12.5%
More than 60%	0.0%
Do not know	12.5%

Effectiveness of Market Surveillance and Border Control

There was a split in the views of respondents (as illustrated in Table 3.22) as to whether, over the last two years, the results of market surveillance and border controls have been effective in discovering vehicles or vehicle components on the national/EU market which were either non-compliant or presenting a serious risk.

Table 3.22: Responses to the question - In the last two years, how effective have the results of market surveillance and border controls been in discovering vehicles or vehicle components on the national/EU market which were either non-compliant or presenting a serious risk?

Response	Percentage of responses	
	Economic Operators	National Authorities
Highly Effective	0%	0%
Effective	50%	20%
Not Effective	25%	20%
Do not know	25%	60%

Twice as many of the economic operators responding considered that market surveillance and border control had been effective than considered them ineffective. For authorities, responses were evenly split between those considering surveillance/controls effective and those considering them to be ineffective. A surprisingly high proportion of national authorities indicated that they did not know if surveillance/border controls had been effective. Both consumer organisations indicated that they did not know if the results of market surveillance and border controls have been effective or not.

In relation to the numbers of RAPEX notifications and vehicle recalls (as discussed earlier), the precise role of the market surveillance and border control authorities has not been determined. In other words, based on the summaries presented in the public domain, it is not possible to determine whether the fault was originally identified by an economic operator, a consumer or by an authority.

Within the wider context of ensuring safety, it is also important to note that the majority of respondents (technical services and national authorities) consider that, over the last two years, type-approval and conformity assessment procedures have been effective or highly effective in preventing non-compliant or unsafe motor vehicles and/or automotive products for these motor vehicles from being placed on the EU market (as shown in Table 3.23). This is consistent with the results of the public consultation exercise in which over 65% of respondents indicated that the

current type-approval system for motor vehicles in the EU is reliable and of a high standard (or quality).

Most, however, agreed that improving the type-approval and conformity of production requirements would provide a higher level of safety and environmental protection (as shown in Table 3.24).

Table 3.23: Responses to the question - In the last two years, how effective have the results of type-approval and conformity assessment procedures been in preventing non-compliant or unsafe motor vehicles and/or automotive products for these motor vehicles from being placed on the EU market?

Response	Percentage of responses		
	Economic Operators	Technical Services	National Authorities
Highly Effective	25%	0%	0%
Effective	25%	75%	60%
Not Effective	25%	0%	0%
Do not know	25%	25%	40%

Table 3.24: Responses to the question - Do you believe that improving the type-approval and conformity of production requirements would provide a higher level of safety and environmental protection?

Response	Percentage of responses		
	Economic Operators	Technical Services	National Authorities
Yes	33%	50%	40%
No	33%	25%	0%
Do not know	33%	25%	60%

Some suggested improvements include:

- simplifying and clarifying the current “*bureaucratic and complicated*” system;
- extending the scope of Directive to cover policy strategies (implementation and integrated reporting) which would enhance the Directive’s operations;
- setting out best practice in market surveillance and conformity assessment; and
- implementing a standard EU database which could be useful to enhance market surveillance and conformity assessment.

3.3.4 Summary of Findings

A review of the literature and the views of respondents indicates that there is still a problem with unsafe automotive products being placed on the EU market. There is also an on-going problem with non-compliant automotive products on the EU market. The exact share of unsafe and non-compliant products in relation to the overall population of automotive products is not known, although based on the experience of technical services and national authorities, it appears that these account for less than 10% (unsafe products) and more than 10% (non-compliant products) of automotive products on the market.

The information on RAPEX does not provide clear quantitative data. However, it does confirm that defective automotive products are being placed on the EU market

and that the many of these recalls appear to be due to inadequate pre-market controls and/or non-compliance.

In this regard, it is worth noting that over 90% of respondents to the public consultation exercise believe that the presence of non-compliant and/or unsafe automotive products on the market is:

- leading to a distortion of competition between economic operators;
- creating a serious challenge for enforcement of the current legislation; and
- has significant negative impacts on society (health and safety, environment)

Furthermore, 40% of all respondents to the public consultation believe that the current procedures for taking action against non-compliant or/and unsafe automotive products across the EU market are neither effective nor sufficient.

Most respondents did not consider that there were any shortcomings in the current legal framework. Nor did they consider that there were any market situations and developments potentially harming the free movement of motor vehicles and their components and/or creating obstacles to fair competition. However, there are clearly problem areas (as discussed under negative experiences) which should be addressed to ensure that the Directive delivers optimal benefits.

Overall, in terms of effectiveness, the Directive is rated as **good (+)**; it is considered that the problems of non-compliant and unsafe products may arise due to circumvention of the regulation, rather than due to insufficient requirements established by the current Directive. Therefore, there is scope to improve and address these weaknesses, not all of which are a result of the failure of regulation.

3.3.5 Recommendations from the Analysis

The above discussion indicates that circumvention of the type approval process should be addressed. In general, the views of national authorities and technical services show that the five areas of attention are seen as problematic, and policy options need to be put forward to address these issues in the next stage.

3.4 Efficiency and Cost-Effectiveness

3.4.1 Matters to be Addressed

This criterion concerns the extent to which resources (funds, expertise, time, etc.) are being converted to results, compared to what was planned. Table 3.25 sets out the questions, sources of information and judgement criteria relevant to the evaluation criterion of efficiency.

Questions	Judgement Criteria	Sources of Data
1. Whether and to what extent are there shortcomings that may prevent or restrict authorities to adequately address and solve the problems encountered with non-compliant or unsafe automotive products on their market? Are these related to limited resources?	Proportion of stakeholders considering that there are shortcomings and proportion considering that these are due to limited resources	Responses to the evaluation questionnaire
2. Whether and to what extent could the costs for optimising the procedure for ex-ante pre-market controls (through type-approval and conformity of production) be out-weighed by a resulting and expected decrease in ex-post enforcement and mitigation efforts due to the risk of non-compliant or unsafe products finding their way to the market?	Proportion of stakeholders considering that optimisation ex-ante costs could be outweighed by reduced enforcement and mitigation costs	Responses to the evaluation questionnaire Discussions with stakeholders in case study context

3.4.2 Outcome of the Analysis

Shortcomings in Addressing Unsafe or Non-compliant Products

A number of organisations suggested factors that may prevent national authorities from adequately addressing the problems of non-compliant or unsafe automotive products on their market. One type-approval authority suggested that a lack of resources to implement adequate market surveillance acts as a barrier to addressing the issue of non-compliant or unsafe products entering the EU market. (In general, Member State Authorities were not able to describe or quantify the costs incurred in relation to market surveillance activities and border controls). Another indicated a potential problem of national authorities protecting manufacturers in their own Member State in order to protect the manufacturers’ competitive advantage.

In terms of improvements, one type-approval authority suggested that the scope of the Directive should not be limited to new vehicles, as vehicles continue to conform to their approval during their whole life time. Another authority suggested setting up minimum standards and procedures to check products.

Optimising the Procedure for Ex-ante Pre-market Controls

Respondents were asked whether they considered that there could be benefits from a scaling down of market surveillance activities, if these could be compensated by enhanced type-approval and conformity assessment activities.

Response	Percentage of responses		
	Economic Operators	Technical Services	National Authorities
Yes	67%	25%	20%
No	0%	50%	40%
Do not know	33%	25%	40%

As the Table 3.26 shows, most economic operators did believe that benefits would accrue from such an approach. However, most technical services and national authorities did not agree, highlighting that:

- type-approval and market surveillance are different, and do not replace each other;
- both are integral parts of the regulatory system for the parts/components of motor vehicles, even if not for whole vehicles (for which there is type-approval, plus registration and road-worthiness checks);
- a reduction in market surveillance would create more opportunities for dishonest persons to sell non-conforming products, thus increasing the number of these products in the EU market; and
- some defects appear during actual use of the vehicle, which would not be detected during type-approval.

One organisation which suggested that scaling down of market surveillance activities could be beneficial, stressed that *'a balance between market surveillance and proactive type-approval system should be kept in order to optimize efforts of authorities'*.

Finally, it is worth noting that over 60% of respondents to the public consultation believe that there is a need to increase the focus on market surveillance.

3.4.3 Summary of Findings

There was no consensus amongst respondents in the target groups on the benefits arising from market surveillance and border control activities; this indicates that there could be scope for improvement in this area. One key area of improvement highlighted by respondents relates to a lack of resources; however, an equally viable area for improvement may relate to establishing minimum standards and procedures for checking motor vehicles.

It is also clear that most technical services and national authorities did not consider that benefits would accrue from a scaling down of market surveillance activities if these could be compensated by enhanced type-approval and conformity assessment activities. Instead, there is scope for improving the type-approval and conformity of production requirements/procedures where this could possibly lead to a higher level of safety and environmental protection and an appropriate balance maintained between market surveillance and an improved type-approval system.

Overall, in terms of efficiency/cost-effectiveness, Directive 2007/46/EC is scored as **good (+)**.

3.4.4 Recommendations from the Analysis

Sufficient information on costs incurred have not been provided for recommendations to be put forward.

3.5 Impacts

3.5.1 Matters to be Addressed

This criterion focuses on the positive and negative, primary and secondary long-term effects produced by a legislative measure, directly or indirectly, intended or unintended. Table 3.27 (over page) sets out the questions, sources of information and judgement criteria relevant to the evaluation criterion of impact.

Questions	Judgement Criteria	Sources of Data
1. Whether and to what extent may the competitive situation of the economic operators in the automotive industry who are respecting the rules suffer (e.g. loss of market share) from competitors placing non-compliant products on the market and whose origin may be difficult or impossible to trace?	Proportion of stakeholders considering that compliant economic operators are suffering adverse effects	Responses to the evaluation questionnaire
2. What is the share of imported automotive products (in relation to the overall population of automotive products being placed on the market) and what is their origin (shares in terms of country of origin) and trends (since Directive was in place)?	Proportion of the market taken by imported products and their origin	Literature Review
3. Do SMEs face any specific problems and challenges? May future developments with regard to internal market problems in the automotive sector have a specific bearing on SMEs in the sector? What are the cumulative impacts of legislation on SMEs?	Proportion of stakeholders considering that SMEs face specific problems and challenges	Responses to the evaluation questionnaire Discussions with SMEs (in case study context)
4. To what extent have refused or withdrawn type-approvals been effective in mitigation of the established risks? Whether and to what extent the effectiveness of these actions may have been reduced by type-approval "hopping", i.e. products for which type-approval has been refused or withdrawn being presented to other technical services and/or type-approval authorities to obtain type-approval?	Proportion of stakeholders considering refused or withdrawn type approvals have been effective. Proportion considering that 'hopping' is a problem	Responses to the evaluation questionnaire
5. Are consumer organisations and NGOs particularly affected by the perceived internal market failures and if so to what extent and in which respect?	Proportion of consumer organisations/NGOs considering themselves affected	Responses to the evaluation questionnaire
6. What impacts has the Directive had on third country manufacturers, e.g. by providing legal clarity and a level playing field for the common rules and procedures that will be applied in the Member States with regard to the surveillance of products placed on the market?	Proportion of stakeholders considering third countries have been affected	Responses to the evaluation questionnaire
7. Have there been any other unexpected impacts on other stakeholders, such as surveillance authorities, registration authorities (e.g.: % of individual vehicle approvals)?	Proportion of stakeholders considering there have been unexpected impacts; proportion of stakeholders reporting overall positive or negative impacts from the Directive	Responses to the evaluation questionnaire

3.5.2 Outcome of the Analysis

Competitive Situation of Economic Operators

It is difficult to determine whether economic operators who are respecting the rules are suffering competitively (e.g. loss of market share) compared with competitors placing non-compliant products on the market. No information on this was provided by economic operators. The global nature of the automotive industry, with even some European manufacturers moving abroad to low-cost bases, means that it is difficult to establish where the imports are coming from. Even some responsible manufacturers have complained about poor quality goods imported from third countries. It appears likely that any such impacts would be felt most by small and medium sized enterprises; however, no information has been provided on this.

Share of Imported Automotive Products

The EU is a very open automotive market, with consumers purchasing motor vehicles from a wide range of countries outside the EU. Despite this wide range, over three quarters of EU passenger car imports come from Japan, Turkey, the USA and South Korea, as Table 3.28 shows.

Country	Value (€ million)	Percentage
Japan	7,896	36.3%
Turkey	3,193	14.7%
USA	2,990	13.8%
South Korea	2,607	12.0%
India	1,536	7.1%
Mexico	1,499	6.9%
Brazil	539	2.5%
South Africa	469	2.2%
China	360	1.7%
Switzerland	125	0.6%
Rest of the World	529	2.4%
Total	21,743	100.0%
<i>Source: ACEA (2010)</i>		

SMEs

As Table 3.29 shows, most technical services and national authorities believe that small and medium-sized enterprises (SMEs) are faced with specific problems and challenges in complying with the requirements of the Directive.

	Economic Operators	Technical Services	National Authorities
YES	0%	50%	60%
NO	33%	25%	30%
Do not know	67%	25%	10%

Some specific problems highlighted by stakeholders as being faced by SMEs include:

- difficulties in obtaining up-to date and valid text of the Directives;
- unfamiliarity with the requirements of the Directive – with the existence of parallel directives, national legislation, referenced UNECE regulations and EU regulations making this even more difficult;
- unavailability of official domestic rules. EU certification from third party suppliers and national certification is still based on the old (70/156) system. Hence, an uneven market situation exists among Member States in terms of available certification alternatives;
- low knowledge of type-approval process, correct setup and data in information documents and certificate of compliance (COC); and
- unfamiliarity with the requirements regarding initial assessment and conformity of production processes.

However, discussions with a few SMEs do not substantiate the suggestion that SMEs have problems in understanding the legislation. Indeed, it has been suggested that SMEs that undertake type approval may have relatively more experience of the process than original equipment manufacturers (OEMs); this is based on the fact that SMEs would typically require type approval for small runs or individual vehicles and, as such, may need to go through the process more frequently than OEMs, which generally seek approval for a small number of types which are then manufactured in hundreds of thousands, requiring only a certificate of conformity. Other points to be borne in mind include:

- not all national authorities/technical services were conversant with the process of undertaking type-approval testing (as the legislation is new); hence, a lack of knowledge is not necessarily limited to SMEs;
- some SMEs who are simply delaying engaging with the process of gaining type-approval, perhaps due to the costs (human and financial) or perhaps timing of the legislation (one respondent suggests that there is a general feeling among the industry that type approval may have been introduced at the wrong time (i.e. during the recession). For one SME, the recession in 2008/2009 meant that it was not able to undertake type-approval as some of its plants had to be closed. This is a different issue from not having access to the Directive or lacking knowledge of the Directive¹¹; and
- finally, the vast majority of SMEs are Tier 2 suppliers (i.e. companies who produce value-adding parts in the sub assembly phase) and, as such, produce vehicle components to specifications provided by OEMs and Tier 1 suppliers (and have no need to engage directly with the legislation). In general, OEMs or Tier 1 suppliers are typically responsible for the manufacture of separate technical units and components and subsequently they will have the primary responsibility of

¹¹ It has been indicated that some of these SMEs that have not acted proactively are likely to experience significant time constraints and difficulties (i.e. financial expense, administrative requirements and delays) in future as a result of the final rush to comply with the Directive.

seeking type approval for them. These organisations tend to be large companies and the overall involvement of SMEs with the Directive appears to be limited.

Discussions with SMEs indicate that, in the main, type-approval does not pose specific technical problems for SMEs; prior to the Directive, companies generally undertook similar tests on their vehicles and complied with national requirements which are fairly similar to the current Directive. The key difference is that companies now have to pay for this testing to be done by approved technical services and paperwork signed off accordingly; the key issue is, therefore, one of cost. The costs are the same for a large manufacturer or an SME, but for the SME, the costs have to be spread over a much smaller number of vehicles or even a single (or one-off) vehicle so that the unit costs are much higher. The costs for SMEs are indicated to be significant. One SME had initial costs of around €15,000 and expects to have spent around €100,000 by the time their entire testing is completed; while another SME has spent approximately €80,000. Information from Agoria Automotive (the Belgian Association), based on contacts with SMEs, also confirms that the typical cost of type-approval for European type-approval on one vehicle is around €100,000 with much higher costs for more complex vehicles. While these costs are expected to reduce after the initial outlay, there are still some on-going costs (e.g. certification needs to be obtained for each new design) and these become significant for an SME, especially when the human resource requirements are considered.

SMEs generally do not have the resources to fund a member of staff solely to deal with type-approval; this means that a technical manager's time has to be taken up with type-approval tasks rather than more technical work (for instance, one respondent indicated that while he is a design engineer, he now spends his time dealing with type-approval and other related tasks, such as reaching agreement with the first-stage suppliers). One impact from this is that, whereas five years ago SMEs offered their customers a wide choice of chassis, now they tend to limit this to one or two, as they simply do not have the time to deal with more manufacturers. To overcome this problem, more ambitious SMEs tend to join industry associations, which helps to keep them up to date with the legislation, provides training and can also answer specific queries that they may have about the legislation and its application. It has also been suggested that the requirements of the Directive have been promoted very well over the last four to five years by the some national authorities and industry associations.

In terms of benefits from the Directive, one SME indicated that there were no noticeable benefits to the company from the Directive. This may, however, be due to the fact that the market for most SMEs in the automotive field is national (e.g. Belgian market traders tend to commission vehicles from Belgian suppliers) and this national focus also means that the benefits for SMEs of European type approval are limited. For another SME, the company's views on type approval were initially negative; however, it now has a more positive outlook. Since obtaining type approval, it has greater potential to market its vehicles across Europe and has already experienced an increase in contacts from companies in Europe wishing to do business with it.

Refused or withdrawn type-approvals (type-approval hopping)

Respondents considered that the effectiveness of refusal or withdrawal of type-approval has been reduced by "type-approval hopping" (i.e. type-approval authorities who are more lenient are selected over other more stringent authorities) and "selective selection of type-approval authority" (i.e. products for which type-approval has been refused or withdrawn being presented to other technical services and/or type-approval authorities to obtain type-approval), as shown in Table 3.30 and Table 3.31.

Interestingly, around half of all respondents to the public consultation do not believe that economic operators are treated equally in the enforcement of the current EU harmonisation legislation for automotive products.

Table 3.30: Responses to the question - To what extent could the effectiveness of refusal or withdrawal of type-approval have been reduced by type-approval hopping?

Response	Percentage of responses		
	Economic Operators	Technical Services	National Authorities
Significantly Reduced	33%	0%	10%
Reduced	0%	50%	40%
Not Reduced	33%	25%	20%
Do not know	33%	25%	30%

Table 3.31: Responses to the question - To what extent could the effectiveness of refusal or withdrawal of type-approval been reduced by selective selection of type-approval authority?

Response	Percentage of responses		
	Economic Operators	Technical Services	National Authorities
Significantly Reduced	0%	0%	10%
Reduced	0%	50%	40%
Not Reduced	67%	0%	20%
Do not know	33%	50%	30%

Consumer Organisations and NGOs

No information was provided as to whether there have been specific impacts of the Directive on consumer organisations and NGOs.

Third Country Manufacturers

No information was provided by economic operators as to whether the Directive has had negative or positive impacts on third country (non-EU) manufacturers.

Unexpected impacts

Most respondents indicated that the Directive has not had any unexpected impacts on their organisation, as shown in Table 3.32. One consumer organisation, however, identified 'safety and environmental consequences, directly via vehicle max weights and dimensions rules, and indirectly via implications for test procedures regarding safety and environmental standards' as unexpected impacts. One national authority noted that the amount of work to be carried out is now greater than before and this was not foreseen.

	Economic Operators	Technical Services	National Authorities
YES	25%	0%	10%
NO	75%	75%	70%
Do not know	0%	25%	20%
Total		100%	100%

Table 3.33 indicates that the majority of respondents have had positive experiences as a result of implementation of Directive 2007/46/EC.

	Economic Operators	Technical Services	National Authorities	Consumer Organisations
YES	80%	50%	60%	50%
NO	0%	33%	20%	0%
Do not know	20%	17%	20%	50%

Specific areas where positive experiences have been experienced were indicated by respondents as follows:

- **Economic operators:**
 - except in some countries, a vehicle can be registered via the certificate of conformity (COC) without the need for additional documentation;
 - improved road safety;
 - EC type-approval of small series; and
 - fewer instances where the vehicle needs to be sent for an inspection by the technical service.
- **Technical Services:**
 - Introducing the possibility of complete vehicle approval for buses, trucks, etc.;
 - Introducing the same conditions/requirements in all EU member states (free markets); and
 - Allowing EC-WVTA (whole vehicle type-approval) procedure as a technical service for a foreign type-approval authority.
- **National Authorities:**
 - generally good mutual recognition of EC type-approvals and good collaboration with Authorities of other Member States;
 - extending EC-WVTA (whole vehicle type-approval) for other categories than M1;
 - generally, the full implementation of the M, N and O classes;
 - harmonising Single Vehicles Approval in many countries within the EU; and
 - introducing marking for components.

3.5.3 Summary of Findings

While organisations have incurred some costs from the Directive, most respondents have not experienced any impacts that were unexpected. For SMEs, the key issue is the administrative burden relating to the legislation and the cost (in fees); while these costs are the same for a large manufacturer or an SME, for the SME, the costs have to be spread over a much smaller number of vehicles or even a single (or one-off) vehicle. Overall, in terms of impacts, the Directive is rated as **good (+)**.

3.5.4 Recommendations from the Analysis

The analysis indicates some possible issues with regard to the impact of the Directive on SMEs. These aspects will be further explored in the impact assessment stage.

3.6 Coherence

3.6.1 Matters to be Addressed

This subsection focuses on the evaluation criterion of coherence, which concerns the extent to which activities undertaken allow the European Commission to achieve its policy objectives without internal contradiction or without contradiction with other EU policies. That is, the results and impacts of EU legislation should contribute to and/or mutually reinforce each other, rather than duplicate or conflict with one another. Table 3.34 below shows the questions, sources of information and judgement criteria relevant to the evaluation criterion of coherence.

Questions	Judgement Criteria	Sources of Data
1. Is the Directive coherent with other international regulations, i.e. UNECE Regulations?	Proportion of respondents considering there is coherence with UNECE Regulations	Responses to the evaluation questionnaire
2. Are there any conflicts with regard to other EU policies or strategies, e.g. air emissions, end-of-life, noise pollution?	Proportion of respondents considering there are conflicts with other EU policies	Responses to the evaluation questionnaire Views of Commission Services

3.6.2 Outcome of the Analysis

Coherence with other International (UNECE) Regulations

Most respondents agreed that Directive 2007/46/EC is consistent with other international regulations (i.e. UNECE Regulations), as shown in Table 3.35. A few respondents indicated there was a lack of consistency, highlighting that:

- the referenced directives differ from the corresponding UNECE Regulations in several small places, e.g. roll-over test of buses with or without payload, space requirements in bus seats, maximum sound level for audible warning devices; and
- there are often other implementation dates than in the EC regulatory act and uncertainties about the compulsory application of amendments of UNECE regulations and the scope of UNECE regulation (e.g. rear under-run protection).

Table 3.35: Responses to the question - Is the Directive consistent with other international regulations, i.e. UNECE Regulations?			
Response	Percentage of responses		
	Economic Operators	Technical Services	National Authorities
Yes	67%	50%	60%
No	0%	25%	20%
Do not know	33%	25%	20%

Conflicts with regard to other EU Policies or Strategies

There was an almost even split in the views of respondents as regards whether there are conflicts with other EU legislation, policies or strategies (e.g. air emissions, end-of-life (ELV), noise pollution, etc.), as Table 3.36 shows.

Table 3.36: Responses to the question: Are there any conflicts with other EU legislation, policies or strategies, e.g. air emissions, end-of-life (ELV), noise pollution?			
Response	Percentage of responses		
	Economic Operators	Technical Services	National Authorities
Yes	25%	0%	30%
No	25%	25%	40%
Do not know	50%	75%	30%

Some of the specific issues identified by respondents include:

- difficulties in understanding the boundaries between Directive 2007/46/EC and Directive 2004/108/EC on electromagnetic compatibility;
- a conflict between technical requirements and an open market (as is suggested has been shown in this paper¹²). By way of example, vehicles in Belgium can get a registration in another European country with other data (for example, the maximal mass of the vehicle lowered to 3,500 kg to ride the vehicle with a B driving licence). Each time the same vehicle is resold, the same scenario occurs (regarding the driving licence of the next owner); and
- conflicts between this Directive and Directive 2009/33/EC on the Promotion of Clean and Energy Efficient Road Transport Vehicles. While the latter sets out common rules which are to be followed for calculating the lifetime costs linked to the operation of vehicles and requires the costs/emissions to be given in [g/km] (as

¹² Communication interprétative de la Commission concernant les procédures d'immatriculation des véhicules à moteur originaires d'un autre État membre". See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:068:0015:0024:fr:PDF>

for M1 vehicles), the regulations/directives listed in Directive 2007/46/EC require results to be given in [g/kWh]. This requires additional tests or certain calculations to meet Directive 2009/33/EC where these calculations are a matter of interpretation and there are no clear answers as to how to calculate emissions.

One consumer organisation did not know if there were conflicts, while the other suggested that there are conflicts between the current legal framework and current EU legislation, inter alia:

“light vehicle fleet CO₂ standards (M1, N1), EURO standards, noise standards, weights and dimensions in circulation, engine power, underrun protection regulations, lateral protection, spray suppression systems, external projections of cabs, general safety regulation, direct and indirect vision requirements, lighting installation, plates, couplings, towing hooks, vehicles for HAZMAT”.

Other Commission Services (DG Environment and DG MOVE) were also asked to provide their views on whether there are conflicts with other EU legislation, policies or strategies. Information obtained from DG Environment would indicate that efforts are made to ensure consistency in the aims of environmental and other automotive legislation. Hence, while Directive 2000/53/EC on End-of-Life Vehicles (ELV) has as its first priority the prevention of waste from vehicles, it also covers the reuse and recycling of ELVs and their parts. Directive 2005/64 on the type-approval of motor vehicles with regard to their reusability, recyclability and recoverability (and referenced by Directive 2007/46/EC) then complements and clarifies the aims of the ELV Directive. More broadly, it was noted that there is scope to deliver further cuts in environmental emissions than those anticipated when initially designing legislation.

3.6.3 Summary of Findings

From the above discussion, it is clear that Directive 2007/46/EC is broadly consistent with both EU and international legislation. However, the responses by respondents suggest that there is scope for making further improvements at the implementation level and/or providing greater clarity for respondents. Overall, in terms of coherence, the Directive is rated as **very good** (++).

3.6.4 Recommendations from the Analysis

It is likely that further coherence will be obtained if efforts are made to address some of the identified areas of uncertainty.

3.7 Added Value of the Current Legal Framework

3.7.1 Matters to be addressed

This subsection focuses on the evaluation questions related to added value, which concerns the extent to which the Directive results in additional benefits to what would have resulted from Member States' actions alone or by industry voluntary agreements.

Table 3.37 shows the questions, sources of information and judgement criteria relevant to the evaluation criterion of added value.

Questions	Judgement Criteria	Sources of Data
1. Why can Member States not achieve the objectives of the Directive by themselves?	Proportion of respondents considering action could not be taken at Member State level	Responses to the evaluation questionnaire
2. Can the EU achieve the objectives of the Directive better than Member States?	Proportion of respondents considering EU could achieve the objectives better	Responses to the evaluation questionnaire
3. Are voluntary initiatives by industry (e.g. “Manufacturers against Product Piracy”) a direct result of Directive 2007/46/EC or other Directives?	Proportion of respondents indicating voluntary initiatives are a direct result	Responses to the evaluation questionnaire

3.7.2 Outcome of the Analysis

Action at Member State Level

None of the responding respondents believed that Member State actions alone would have been sufficient to address the issues arising in the internal market for automotive products (see Table 3.38).

Response	Percentage of responses			
	Economic Operators	Technical Services	National Authorities	Consumer Organisations
Yes	0%	0%	0%	0%
No	67%	50%	70%	100%
Do not know	33%	50%	30%	

Action at EU Level

Respondents were also unanimous in agreeing that action at EU level in the automotive field has produced clear benefits compared with action at Member State level only (see Table 3.39). Most respondents, including economic operators and consumer organisations, indicated that the benefits were due to the scale and/or effectiveness of EU-wide action, as shown in Table 3.40.

Response	Percentage of responses			
	Economic Operators	Technical Services	National Authorities	Consumer Organisations
Yes	67%	50%	90%	100%
No	0%	0%	0%	0%
Do not know	33%	50%	10%	

	Reason of its scale		Reason of its effectiveness	
	Technical Services	National Authorities	Technical Services	National Authorities
YES	100%	100%	50%	78%
NO	0%	0%	50%	11%
Do not know	0%	0%	0%	11%

Voluntary Initiatives by Industry

Most respondents were not aware of the underlying reason for the adoption of voluntary initiatives by industry (as shown in Table 3.41). While technical services and economic operators do not identify EU legislation as being a causal factor, some national authorities believe that these factors lead to the uptake of voluntary initiatives. One consumer organisation suggested that the adoption of voluntary initiatives by industry is a direct result of Directive 2007/46/EC, stating that they are *‘driven by competitiveness factors, but facilitated by EU type approval framework’*.

Response	Percentage of responses		
	Economic Operators	Technical Services	National Authorities
Due to Directive 2007/46/EC	0%	0%	20%
Due to Other EU Legislation	0%	0%	10%
Due to Other Factors	33%	50%	20%
Do not know	67%	50%	70%

3.7.3 Summary of Findings

From the above discussion, it is clear that the Directive has provided added value in establishing a harmonised framework within the internal market for the automotive industry, by establish the provisions for the sale and entry into service of parts and equipment intended for vehicles. It has also complemented and co-ordinated the actions of Member State authorities in ensuring that a high level of safety and environmental protection is provided to EU consumers. Overall, in terms of added value, the Directive is rated as **very good (++)**.

3.7.4 Recommendations from the Analysis

No recommendations have been made.

3.8 Summary of Evaluation

Table 3.42 summarises the findings of the analysis against the indicators identified in Section 3.1. Overall, the Directive is rated as **good to very good (+/++)**.

Indicator	Evaluation	Justification based on Judgement Criteria
Relevance	+/++	Most respondents to the consultation questionnaire believe the Directive is relevant in terms of both its scope and its objectives. With the exception of a few comments on the Directive's scope, no problems have been identified which would suggest that the Directive is not relevant. The Directive's relevance could, however, decline in the future if expansion of electric vehicles reduces the proportion of road vehicles within its scope.
Effectiveness	+	Although respondents pointed to issues with non-compliant and unsafe products and recalls, it appears that these arise due to circumvention of the legislation rather than due to deficiencies in the legislation itself. The majority of respondents consider that, over the last two years, type-approval and conformity assessment procedures have been effective or highly effective in preventing non-compliant or unsafe motor vehicles and/or automotive products from being placed on the EU market. However, there was no such consensus on the benefits arising from market surveillance and border control activities.
Efficiency	+	Insufficient information on costs was provided by stakeholders; however, the existing system is thought to work broadly well. One key area of improvement in market surveillance/border controls highlighted by respondents relates to a lack of resources.
Impacts	+	While organisations have incurred some costs from the Directive, most respondents have not experienced any impacts that were unexpected. For SMEs, a key issue identified by most respondents is a general lack of knowledge of the Directive and the type-approval process.
Coherence	++	Most respondents agreed that Directive 2007/46/EC is broadly consistent with EU and international legislation; additional guidance (rather than regulatory changes) might be helpful to provide further clarity.
Added Value	++	Respondents were unanimous in agreeing that action at EU level in the automotive field has produced clear benefits compared with action at Member State level only, due to the scale and/or effectiveness of EU-wide action.
Overall	+/++	

This is broadly consistent with the views of respondents when asked to give an overall rating to the implementation of the Directive. The vast majority of national authorities and economic operators indicated that implementation of the legal framework has been satisfactory or highly satisfactory. However, around 50% of technical services believe it has not been satisfactory.

	Economic Operators	Technical Services	National Authorities	Consumer Organisations
Highly Satisfactory	0%	0%	20%	0%
Satisfactory	100%	33%	70%	50%
Not satisfactory	0%	50%	0%	50%
Highly unsatisfactory	0%	0%	0%	0%
Do not know	0%	17%	10%	0%
Total	100%	100%	100%	100%

4. IDENTIFICATION OF POLICY OPTIONS BASED ON THE EVALUATION FINDINGS

4.1 Introduction

A number of areas of attention associated with the implementation and enforcement of Directive 2007/46/EC have been identified by the Commission Services in consultation with stakeholders (e.g. in working groups and through submissions). A number of potential initiatives have also been put forward to address these areas, in order to enhance the implementation of the internal market for motor vehicles.

Four broad policy options have been identified:

- Option 1: baseline scenario/do nothing option;
- Option 2: self-regulatory initiatives;
- Option 3: co-regulatory initiatives; and
- Option 4: regulatory initiatives.

Table 4.1 shows which of these policy options are considered to be relevant for addressing the five key problem areas which were identified in the Study Specifications (see Annex 1).

Key Problem/Option	Option 1	Option 2	Option 3	Option 4
Traceability of products and clarifying the role and responsibilities of economic operators	YES	YES		YES
Responsibilities of and co-operation between the different national authorities	YES	YES	YES	YES
Weaknesses in the quality of the type-approval and conformity assessment tasks	YES	YES		YES
Difficulties in applying post-market safeguard procedures and the recall of vehicles	YES	YES		YES
Weak links in the procedures for ensuring conformity of production	YES	YES		YES

The aim of this Section is to assess whether, taking into account the results of the data collection and evaluation process:

- the policy options identified are **relevant and eligible for further assessment**; and
- whether there are any **other problem areas and associated policy options that would need to be considered** to ensure that the initiative is addressing all aspects which can contribute to enhancing the single market in the automotive sector.

The assessment is based on the responses of stakeholders (28 in total) on the suitability of the potential initiatives to enhance the current system.

4.2 Relevance and Eligibility of the Policy Options to the Areas of Attention

4.2.1 First Area of Attention

The first area of attention relates to the “**traceability of products and the role and responsibilities of economic operators in the supply chain** (manufacturers, authorised representatives, importers, distributors)”. Nearly 70% of all respondents to the public consultation believe that there is a need for better clarifying the rules on providing information to ensure the traceability of automotive products and the role and responsibilities of the economic operators involved in the supply chain.

Three economic operators (EO) provided their views on potential initiatives relating to this problem area. Their responses are summarised in below. Two of the respondents favour amending the existing technical harmonisation legislation; the other favours doing nothing.

All four responding technical services (TS) and both consumer organisations (CO) are in favour of amending the existing technical harmonisation legislation.

Nine national authorities (NA) provided their views on this issue. The majority (44%) of respondents are in favour of amending the existing technical harmonisation legislation. The respondent that selected the ‘other’ option indicated that they do not know which initiative they consider to be the most appropriate for addressing this issue.

Response	Percentage of Respondents			
	EO	TS	NA	CO
Do nothing (i.e. no changes to the existing situation are necessary)	33%	0%	22%	0%
Undertake awareness campaigns and/or voluntary agreements with economic operators to (a) address the problems relating to the identification and traceability of noncompliant automotive products encountered on the market and (b) to clarify and agree on the responsibilities and accountability of the involved economic operators with regard to the compliance of the products for which they are involved in the supply chain	0%	0%	22%	0%
Amending the existing technical harmonisation legislation , where this would involve developing, within the internal market legislation on motor vehicles, provisions to (a) address problems relating to the identification and traceability of non-compliant products encountered on the market and (b) to provide legal clarity about the responsibilities and accountability of the concerned stakeholders in the supply chain	67%	100%	44%	100%
Other	0%	0%	11%	0%

4.2.2 Second Area of Attention

The second area of attention relates to the “**responsibilities of and co-operation between the different national authorities within the Member States involved in enforcement** of Directive 2007/46/EC in their territory”. Over 50% of all respondents to the public consultation do not believe that the respective roles and responsibilities of the authorities involved in the enforcement of the current legal system are sufficiently clear.

Two of the three responding economic operators favour joint action by the Commission and the Member States. Half of the technical services favour joint action by the Commission and the Member States, and the other half favour amending the existing technical harmonisation legislation. Three quarters of the national authorities favour joint action by the Commission and the Member States. One consumer organisation favoured joint actions by the Commission and Member States, while the other favoured amending the existing technical harmonisation legislation is the most appropriate option.

Table 4.3: Responses to the question - The second area of attention relates to the “responsibilities of and co-operation between the different national authorities within the Member States involved in enforcement of Directive 2007/46/EC in their territory”. Which of the following potential initiatives do you consider to be the most appropriate for addressing this issue?				
Response	Percentage of Respondents			
	EO	TS	NA	CO
Do nothing (i.e. no changes to the existing situation are necessary)	33%	0%	0%	0%
Undertake awareness campaigns and/or voluntary agreements with and between enforcement authorities in the Member States to clarify and agree on their respective roles and responsibilities and to enhance the information exchange and co-operation between them, both at national and cross border level	0%	0%	13%	0%
Joint actions by the Commission and the Member States aimed at improving the enforcement of the current legal framework for automotive products, such as targeted training for national authorities and the development of interpretation guidelines on the legal provisions on type-approval, conformity of production, recall of vehicles, safeguard measures and market surveillance	67%	50%	75%	50%
Amending the existing technical harmonisation legislation , where this would involve developing, within the internal market legislation on motor vehicles, provisions to specify and clarify the role and responsibilities of the different authorities in the Member States involved in the enforcement of the Directive in their territory and to establish clear procedures for information exchange and cooperation between them to effectively remedy any market failure caused by the presence of non-compliant products on the market	0%	50%	13%	50%
Other	0%	0%	0%	0%

4.2.3 Third Area of Attention

The third area of attention relates to the “**quality and performance of technical services**”. 60% of all respondents to the public consultation believe that the quality and performance level of technical services (involved in the type approval and conformity of production process) vary considerably between technical services – but could be improved by strengthening the quality criteria in the current legal framework.

Two thirds of the responding economic operators favour undertaking awareness campaigns and/or voluntary agreements with and between technical services, as do half of the technical services. The other half of the technical service responses are split between those that favour amending the existing technical harmonisation legislation and those that favour doing nothing.

The majority (63%) of national authorities are in favour of amending the existing technical harmonisation legislation, are both consumer organisations. A quarter of technical services and national authority respondents, and a third of economic operators, suggested that no changes are needed to the current system.

Table 4.4: Responses to the question - The third area of attention relates to the “quality and performance of technical services”. Which of the following potential initiatives do you consider to be the most appropriate for addressing this issue?				
Response	Percentage of Respondents			
	EO	TS	NA	CO
Do nothing (i.e. no changes to the existing situation are necessary)	33%	25%	25%	0%
Undertake awareness campaigns and/or voluntary agreements with and between technical services to (a) clarify and agree on their respective roles and responsibilities and (b) achieve a uniform level of stringency in type-approval testing and verification of the conformity of production, including mechanisms for information exchange and co-operation between them	67%	50%	13%	0%
Amending the existing technical harmonisation legislation , where this would involve developing, within the internal market legislation on motor vehicles, provisions to clarify and strengthen the requirements technical services have to comply with to be entitled to perform type-approval testing and verification of COP	0%	25%	63%	100%
Other	0%	0%	0%	0%

4.2.4 Fourth Area of Attention

The fourth area of attention relates to the “**application of post-market safeguard measures and the recall of vehicles and components**”.

Three economic operators provided their views on potential initiatives relating to the application of post-market safeguard measures and the recall of vehicles and components. Two of these favour the ‘do nothing’ option. All the technical services

are in favour of amending the existing technical harmonisation legislation. The majority of national authorities are in favour of a ‘do nothing’ approach, with no changes to the existing situation.

In this regard, it is worth noting that the majority of respondents to the public consultation exercise do not know whether existing safeguard procedures are effective and can be improved. Although over 25% also believe that the procedures for the recall of automotive products in the current legal system are sufficiently clear and effective, over 20% think they are not. It may, therefore, be the case that the stakeholders preferring a “do nothing” option are currently unable to assess whether the existing systems are effective or not (and, hence, whether a change is required).

Table 4.5: Responses to the question - The fourth area of attention relates to the “application of post-market safeguard measures and the recall of vehicles and components”. Which of the following potential initiatives do you consider to be the most appropriate for addressing this issue?				
Response	Percentage of Respondents			
	EO	TS	NA	CO
Do nothing (i.e. no changes to the existing situation are necessary)	67%	0%	50%	0%
Undertake awareness campaigns and/or voluntary agreements with and between the different authorities in the Member States involved in the implementation and enforcement of the internal market legislation for motor vehicles to clarify and agree on their respective roles and responsibilities in post-market safeguard measures and recall actions, and the communication channels and procedures for exchange of information and co-operation	0%	0%	25%	50%
Amending the existing technical harmonisation legislation , where this would involve developing, within the internal market legislation on motor vehicles, provisions to specify the role of and interaction between the different authorities involved in post-market safeguard measures and recall actions, as well as the cross border information exchange and co-operation between national enforcement authorities	33%	100%	25%	0%
Other	0%	0%	0%	50%

Interestingly, while one consumer organisation indicated undertaking awareness campaigns and/or voluntary agreements with economic operators as the most appropriate initiative for addressing this issue. The other organisation did not select any of the options provided above and instead provided an option of their own: ‘*establish mandatory EU-level collection and analysis of national datasets of type approval (TA) and conformity of production (CoP) to enable pan-European trends, i.e. safety or environmental concerns, to be identified*’.

4.2.5 Fifth Area of Attention

The fifth area of attention relates to “**the verification procedures for ensuring conformity of production**”. Less than 30% of all respondents to the public consultation indicated that the current procedures for ensuring conformity of production are effective while 40% believe that the involvement of the authorities is too weak.

Economic operators' opinion was divided between the three options of 'do nothing', undertaking awareness campaigns/voluntary agreements and amending the existing technical harmonisation legislation. Opinion among technical services is split equally between those that favour undertaking awareness campaigns and/or voluntary agreements with economic operators and those that favour amending the existing technical harmonisation legislation. The majority (63%) of national authorities, as well as the responding consumer organisation, are in favour of amending the existing technical harmonisation legislation. A quarter of national authority respondents suggested that no changes are needed to the current system.

Table 4.6: Responses to the question - The fifth area of attention relates to “the verification procedures for ensuring conformity of production”. Which of the following potential initiatives do you consider to be the most appropriate for addressing this issue?

Response	Percentage of Respondents			
	EO	TS	NA	CO
Do nothing (i.e. no changes to the existing situation are necessary)	33%	0%	25%	0%
Undertake awareness campaigns and/or voluntary agreements with and between the different stakeholders involved in the conformity of production (manufacturers, technical services and type-approval authorities in the Member States) to clarify and agree on the quality criteria and procedures to be applied for verifying and ensuring the conformity of production	33%	50%	13%	0%
Amending the existing technical harmonisation legislation , where this would involve developing, within the internal market legislation on motor vehicles, provisions to clarify and strengthen the provisions on conformity of production, through the application of the principles and provisions of the NLF related to the verification of conformity during the production stage. These provisions cover the assessment of quality management systems for production, and product related controls through inspection and testing, under surveillance by the competent authorities	33%	50%	63%	50%
Other	0%	0%	0%	0%

4.3 Other Problem Areas and Associated Policy Options for Consideration

4.3.1 New Legislative Framework

Respondents were asked whether they considered that the approaches provided by the New Legislative Framework could contribute to addressing the attention areas that had been identified. The responses are shown in the Table below.

Table 4.7: Responses to the question - Do you consider that the approaches applied in other product sectors and the harmonised legislative provisions provided by the New Legislative Framework could contribute to addressing the attention areas that have been identified?			
Response	Percentage of responses		
	EO	TS	NA
Yes	0%	25%	11%
No	50%	0%	33%
Do not know	50%	75%	56%

The majority of national authorities responding to this question did not know whether the approaches provided by the New Legislative Framework could contribute to addressing the attention areas. A third of respondents considered this not to be the case. National Authorities answering this question were asked to further explain their answer. One respondent stated that:

‘this all depends on the integrity of the authorities and the technical services. If the type-approval authority has to realize a profit like the technical services the system doesn't work’.

4.4 Validation of the Policy Options

In assessing the responses of stakeholders to proposed policy options, it is worth noting that all of the suggested policy options were considered by one or more respondents to be appropriate solutions; hence, it can be concluded that the policy options are all **relevant** to the problem areas identified.

In terms of being **eligible for further assessment** (where this includes the acceptance and feasibility of the policy options), two key factors have been taken into account:

- the percentage of respondents who have indicated in favour of the various policy options (as shown in Tables 4.2 to 4.6); and
- the extent to which their views are likely to be representative of that stakeholder group.

With regard to the percentage of respondents favouring a given policy option, as can be seen from Tables 4.2 to 4.6, the policy preference of the technical services and national authorities are generally the same, except for the problem area relating to the “quality and performance of technical services” (which could be explained as being due to intrinsic response bias i.e. the extent to which they could be wholly objective about a problem area relating to them). Consumer organisations generally tend to favour additional measures which are guaranteed to protect consumers and this is reflected in their choice of policy options (favouring legislative amendments for three out of the five problem areas); although, it is not clear (as can be seen from the Tables) that they prefer(ed) legislative amendments any more than technical services and national authorities do (or did).

In terms of the representativeness of the responses, it is considered that:

- the views of the consumer organisations are *representative* and relevant for policy making purposes – taking into account the size and standing of the two consumer organisations which responded;
- the views of the national authorities, while not statistically representative are likely to be *fairly representative* of the views of national authorities for policy making purposes, where they cover around a third of the EU countries (including Germany, Sweden, Italy, etc.);
- the views of the technical services are neither statistically representative nor representative for their sector; however, given that the views are spread over technical services from eight Member States, they are considered to be useful/indicative for policy making purposes; and
- the views of economic operators are neither statistically representative nor representative of the sector – as none of the major industry associations nor motor vehicle or part manufacturers has provided information to the study .

Overall, the extremely small sample size of respondents and lack of statistical representativeness, particularly for economic operators and technical services, is a significant constraint on the robustness of the findings and thus the extent to which the data on its own can be used for policy making purposes. As it is neither foreseen nor possible to increase the sample size (and statistical representativeness) for the study, all of the policy options have been taken forward to the next stage of the study (i.e. the impact assessment stage).

5. CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

Despite the limited number of responses received (28 in total), it is clear from the analysis set out in Section 3 that the objectives and scope of Directive 2007/46/EC continue to be considered valid and **relevant** to the current situation in the market and for the automotive sector. A high proportion of respondents across all stakeholder groups consider that the three objectives of the Directive are still relevant. The majority of national authorities and economic operators (as well as one consumer organisation) indicated that implementation of the legal framework has been satisfactory or highly satisfactory. However, around 50% of technical services (and one consumer organisation) believe it has not been satisfactory. Taking into account the objectives of the Directive, most respondents also consider that, over the last two years, type-approval and conformity assessment procedures have been effective or highly effective in preventing non-compliant or unsafe motor vehicles and/or vehicle products from being placed on the EU market.

In terms of **effectiveness** of the legislation, the majority of respondents agreed that there is a problem with unsafe automotive products being placed on the EU market. Responses from technical services and national authorities indicate that these may account for less than 10% of automotive products on the market. The majority of the technical services and national authorities also recognise that there is a problem with non-compliant automotive products being placed on the EU market. However, while most technical services believe this to be serious problem, national authorities are split between those who consider the problem to be highly serious or serious and those who do not. Consumer organisations consider the issue of non-complaint automotive products to be a serious or highly serious problem. Responses from technical services and national authorities indicate that these may account for more than 10% of automotive products on the market.

An analysis of the 146 motor vehicle RAPEX notifications in 2010 indicates that around 4% of RAPEX notifications specified non-compliance as an explicit reason for recall, confirming a presence on the EU market of products and components that are not compliant. Inadequate pre-market controls, non-compliance and design issues were consistently identified across most respondents as the primary causes of recalls. These are clearly problem areas which need to be addressed to ensure that the Directive delivers optimal benefits, even if these weaknesses are not necessarily the result of a failure of the Directive (or legislation).

Despite this, the majority of economic operators responding considered that market surveillance/border controls had been effective. For national authorities, responses were evenly split between those considering surveillance/controls effective and those considering them to be ineffective and a surprisingly high proportion did not know if surveillance/border controls had been effective or ineffective. Both consumer organisations indicated that they did not know whether surveillance/border controls have been effective or not. Most respondents did not also consider that there are any shortcomings in the current legal framework or any market situations and

developments potentially harming the free movement of motor vehicles and their components and/or creating obstacles to fair competition.

In terms of **efficiency** of the Directive, national authorities were, in general, not able to describe or quantify the costs incurred in relation to market surveillance activities and border controls. Despite this, increasing resources available for these tasks was identified as one key area of improvement highlighted by respondents. However, they also pointed to the potential for improvement through establishing minimum standards and procedures for checking motor vehicles.

While most economic operators believe that benefits would accrue from a scaling down of market surveillance activities, if these could be compensated by enhanced type-approval and conformity assessment activities, most technical services and national authorities did not agree. Instead, they considered that there is scope for improving the type-approval and conformity of production requirements/procedures, which could lead to a higher level of safety and environmental protection, and that an appropriate balance should be maintained between market surveillance and an improved type-approval system.

In terms of **impacts**, while organisations have incurred some costs from the Directive, most respondents did not experience any impacts (or costs) that were unexpected. The majority of respondents have also had positive experiences as a result of implementation of Directive 2007/46/EC. Most technical services and national authorities believe that small and medium-sized enterprises (SMEs) are faced with specific problems and challenges in complying with the requirements of the Directive; in this regard, a key issue identified by most respondents is a lack of knowledge of the Directive and the type-approval process. Discussions with a few SMEs, however, indicate that the lack of knowledge may not be restricted to SMEs, but relate to the fact that the overall type-approval process and legislation is new (at least, to some countries) and that most SMEs are not involved in type approval activities. According to these SMEs, the main challenges are the initial costs (and administrative burden) associated with complying with the type-approval legislation.

Respondents also considered that the effectiveness of refusal or withdrawal of type-approval has been reduced by "type-approval hopping" (i.e. type-approval authorities who are more lenient are selected over other more stringent authorities) and "selective selection of type-approval authority" (i.e. products for which type-approval has been refused or withdrawn being presented to other technical services and/or type-approval authorities to obtain type-approval).

Most respondents agreed that Directive 2007/46/EC is **coherent**/consistent with other international regulations (i.e. UNECE Regulations). However, the responses suggest that there is scope for making further improvements at the implementation level, and/or providing greater clarity for respondents.

None of the respondents considered that Member State actions alone would have been sufficient to address the issues in the internal market for automotive products. Respondents were also unanimous that action at EU level in the automotive field has

produced clear benefits compared with action at Member State level only. Most respondents, including economic operators and consumer organisations, indicated that the benefits were due to the scale and/or effectiveness of EU-wide action. Overall, it is clear that the Directive has provided **added value**, in establishing a harmonised framework within the internal market for the automotive industry, by establish the provisions for the sale and entry into service of parts and equipment intended for vehicles. It has also complemented and co-ordinated the actions of Member State authorities in ensuring that a high level of safety and environmental protection is provided to EU consumers.

Although these conclusions are clear, the extremely small sample size of respondents, particularly for economic operators and technical services, is a constraint on the robustness of the findings and thus the extent to which the data can be used for policy making purposes. However, considering the broad similarity in the findings to those from the public consultation exercise, it is considered that the findings are generally representative.

Three key conclusions can thus be drawn from the ex-post evaluation of Directive 2007/46/EC:

- **the Directive has proven its relevance by addressing issues regarding type approval and conformity of production** and ensuring that vehicles and vehicle components/units put on the market provide a high level of safety and environmental protection. However, there is some concern that the scope may not being sufficient to address future market changes and problem areas. Additional measures should be considered to ensure the continued relevance of the Directive, in particular by addressing the problem areas which could hinder the achievement of the objectives in future;
- **there are still problems with unsafe and/or non-compliant automotive products being placed on the EU market.** The continued effectiveness of Directive 2007/46/EC will depend on the extent to which circumvention of the legislation by traders is addressed. This would require further efforts to be directed towards ensuring that there are adequate pre-market controls, as well as post-market controls to deal with non-compliance by manufacturers; and
- **the effectiveness of Directive 2007/46/EC relies significantly on the quality and performance of technical services** and also on the ability to ensure conformity of production. Actions which undermine the effectiveness of technical services (such as type approval hopping) also undermine the Directive's effectiveness.

5.2 Recommendations

Four key recommendations arise from this ex-post evaluation:

- The Commission should consider proposing specific measures to address the traceability of automotive products in the supply chain and, linked to this, the role and responsibilities of economic operators. With globalisation and increasing manufacture of vehicles and vehicle components/units outside the EU, tracing the origin of non-compliant products encountered on market (and those responsible for these products) will be a key action in ensuring the continued effectiveness, as well as effective enforcement, of Directive 2007/46/EC in the future.
- The Commission should consider proposing specific measures to address the problem of unsafe and non-compliant automotive products on the market. This should involve specifying the responsibilities of the national authorities involved in the enforcement of the Directive (i.e. market surveillance authorities, border controls/custom authorities and technical services) and the need for co-operation between these authorities.
- The Commission should consider proposing specific measures to improve the quality and performance of technical services. Such specific measures should target problems relating to type-approval hopping, as well as aiming at a more uniform level of stringency in services provided by technical services.
- The Commission should consider proposing measures to address the weak links in the procedures for ensuring conformity of production. The RAPEX data indicates that a significant proportion of vehicle recalls are due to defective products and design flaws, and some of these may have been type-approved. Vehicles produced based on an approved type must also comply with the applicable requirements.

5.3 Next Steps – Impact Assessment (Module 2)

5.3.1 Overview

The next steps of the study will focus on undertaking the tasks relating to an impact assessment of the policy options. These tasks are set out below:

- Task 3.1: Collecting and Analysing the Relevant Impact Assessment Data;
- Task 3.2: Identification of Policy Options based on the Evaluation Findings;
- Task 3.3: Validation of Identified Objectives;
- Task 3.4: Assessment of the Identified Policy Options;
- Task 3.5: Comparison of the Policy Options;
- Task 3.6: Monitoring and Evaluation;
- Task 3.7: Submission of Draft Impact Assessment;
- Task 3.8: Impact Assessment Meeting;
- Task 3.9: Drafting of Minutes; and
- Task 3.10: Final Impact Assessment.

5.3.2 Task 3.1: Collecting and Analysing the Relevant Impact Assessment Data

The aim of this task is to collate and analyse the information obtained from relevant stakeholders and associated desk research in order to be able to undertake the relevant tasks under this Stage.

For the data collection relating to the impact assessment, we anticipate using three key sources of data:

- the first set of data will come from the **questions asked in the evaluation questionnaire**. The responses to the evaluation questionnaire provide some useful information as to:
 - whether the policy options identified to date are relevant and eligible for further assessment;
 - whether there are any other problem areas and/or policy options that would need to be considered;
 - whether the objectives of the study are relevant; and
 - inform an initial assessment of the importance of the likely impacts of the policy options;
- the second set of data will be the result of **targeted data collection**, focusing on specific respondents who have indicated an interest and/or have useful input which is of relevance for the impact assessment. This information will:
 - inform the qualitative and quantitative socio-economic assessment of the policy options; and
 - inform the comparison of the policy options (including implementation obstacles and associated risks) and monitoring progress; and
- the final set of data will come from **desk research and publications**. This will involve analysis of existing reporting and documents to identify additional quantitative information for the impact assessment.

The first set of data has been collected (as set out in the Annexes) and market data have also been obtained from desk research and publications. **For the targeted data collection, it will be important to discuss and agree with the Commission how to reach economic operators, since only a small number of these have completed the questionnaire.**

5.3.3 Task 3.2: Identification of Policy Options based on the Evaluation Findings

As discussed in Section 4, all of the suggested policy options were considered by one or more respondents to be appropriate solutions; hence, it was concluded that the policy options are all **relevant** to the problem areas identified. In terms of being **eligible for further assessment**, the extremely small sample size of respondents, particularly for economic operators and technical services, is a significant constraint on the statistical representativeness and/or robustness of the findings and thus the extent to which the data can be used for policy making purposes. As it is not foreseen

to increase this sample size, all of the policy options have been taken forward to the impact assessment stage.

Any further screening of the policy options will take place under Task 3.4, taking into account the potential relevance and impact of the NLF and focussing on the identification of high likelihood/high magnitude impacts under each policy option that will be subject to in-depth assessment.

5.3.4 Task 3.3: Validation of Identified Objectives

The overall policy objective of Directive 2007/46/EC is to safeguard and strengthen the internal market for motor vehicles by ensuring that all necessary mechanisms are in place for an effective and uniform implementation and enforcement of the automotive product framework legislation. It also aims at achieving that all motor vehicles as well as components/units intended for such vehicles which are placed on the EU market fulfil the applicable requirements, with a view to ensure a high level of safety and environmental protection, and that a level playing field is maintained for the economic operators involved.

Three specific objectives have been identified for improvement of the Directive:

- to reduce the number of non-compliant motor vehicles and components/units intended for such vehicles on the EU market;
- to ensure effective and uniform action against non-compliant automotive products across the EU market and equal treatment of economic operators in the implementation and enforcement process; and
- to ensure the reliability and high quality of type-approval of motor vehicles and the conformity of their production.

The aim of this task is to verify the policy objectives in terms of their relevance in the light of the outcome of the data collection exercise undertaken. As discussed in Section 4, responses from stakeholders indicate clearly that the policy objectives of the present initiative remain valid.

All economic operators and the majority of technical services and national authorities recognise that there is a problem with non-compliant automotive products, although stakeholders disagree on the seriousness of the problem. This appears to confirm the relevance of those of the policy objectives which aim to address the issue of non-compliant products. Non-compliance was also identified as one of the causes of recalls, thus further highlighting that this is an issue that warrants attention. Similarly, the majority of respondents believe that the issue of unsafe automotive products exists, though, again, there is disagreement on its magnitude. This, again, confirms the relevance of all of the policy objectives.

In relation to the equal treatment of economic operators in the enforcement process, most respondents did not consider there were any shortcomings in the current legal framework or market situations or developments harming the free movement of motor vehicles or their components or fair competition. However, there were still

respondents which identified problems in these areas, thus suggesting that the policy objective of equal treatment of operators is still relevant for the purposes of further analysis.

The five areas of attention are closely linked to the policy objectives. Therefore, respondents' views on the five areas of attention can be taken to indicate the extent relevance of the policy objectives. A substantial proportion of respondents indicated that these areas are "somewhat problematic" or "highly problematic"; some respondents expect the importance of these areas of attention to further increase in the future. However, others respondents considered some of these areas as "not an important problem". While this does not invalidate the policy objectives, it highlights the need for a careful assessment of the costs and benefits in the course of Module 2. For most areas of attention, consultees would prefer some form of action over the "do nothing" option.

In conclusion, the results of the evaluation exercise confirm the relevance of the policy objectives for the purposes of further impact assessment of the identified options.

The Study Specifications requires that this task will also aim at identifying and formulating operational objectives for monitoring and evaluation. This will be further explored in the course of our work for Module 2.

5.3.5 Task 3.4: Assessment of the Identified Policy Options

This task involves an assessment of the identified policy options.

Our approach to the impact assessment will draw on the general approach in the European Commission's Impact Assessment Guidelines¹³, which outlines the key steps in carrying out policy assessments as follows:

- **Step 1:** Identification of existing problems and objectives of legislative intervention;
- **Step 2:** Defining the policy options;
- **Step 3:** Identification of impacts that are relevant to each policy option and of the key stakeholders who will be affected;
- **Step 4:** Initial assessment of the importance of these impacts based on their expected magnitude and on the likelihood of them occurring;
- **Step 5:** In-depth analysis of the most significant impacts;
- **Step 6:** Comparison of the policy options; and
- **Step 7:** Identification of the preferred policy option.

¹³ European Commission Impact Assessment Guidelines 15 January 2009 SEC(2009) 92

Steps 1 and 2 of this process have been completed as part of the evaluation of the current Directive, described in Sections 1-5 of this report. This task will, therefore, focus on Steps 3 - 5.

For each policy option, the study team will:

- **identify the possible economic, social and - where appropriate – environmental impacts:** this will involve compiling a list of impacts that can be expected to occur under each option and of the stakeholders affected. This will be achieved by reviewing the comprehensive checklist of potential economic, environmental and social impacts set out in Tables 1-3 of the Commission's Impact Assessment Guidelines and identifying any additional impacts. Both direct and indirect impacts will be considered;
- **undertake a screening of these impacts based on their expected magnitude and on the likelihood of them occurring:** The list of potential impacts will be evaluated in relation to the magnitude of potential benefits and costs and the likelihood of these effects occurring. This analysis (based on information provided by stakeholders) will lead to the identification of high likelihood/high magnitude impacts that will be subject to in-depth assessment;
- **undertake an in-depth analysis of the most significant impacts in qualitative and quantitative terms:** where this will include:
 - estimating, where relevant, the administrative burdens for the parties likely to be affected by the policy options using the standard cost model;
 - assessing, where relevant, any significant administrative cost public authorities may be faced with as well their possible impact on employment (both in the public and private sector);
 - identifying and assessing any specific impacts on SMEs;
 - assessing the overall costs and benefits of the policy options (to the extent possible in monetised terms); and
 - identifying any distributional effects.

As this initiative will build on the principles of the New Legislative Framework, as part of desk research we will also consider the impact assessment carried out for the NLF, but focus on the specificities of the automotive industry sector and of the type-approval concept upon which the automotive product legislation is based.

5.3.6 Task 3.5: Comparison of the Policy Options

This task completes Steps 6 (Comparison of the policy options) and Step 7 (Identification of the preferred policy option) of the approach to impact assessment.

Under this task, we will compare the different policy options by using the most appropriate methodologies in terms of their costs and benefits, or where quantification of benefits would appear not be feasible, in terms of their cost-effectiveness.

Where relevant, particularly if highlighted by stakeholders, we will also identify combinations of policy options (scenarios) which could address the defined problems more effectively and efficiently and rank them in terms of their effectiveness (i.e. their potential to address the problems identified). Any potential negative effects in the scenarios, as well as possible measures to mitigate them, will be identified and assessed. The synergies that can be obtained by combining policy options in scenarios will also be highlighted, in particular by identifying possible trade-offs or win-win situations that can be achieved from these combinations.

From the established ranking, the most promising scenarios will be selected and compared in a multi-criteria analysis and assessed against the criteria of efficiency, effectiveness and coherence. Any potential obstacles to the implementation of the scenarios and/or any associated risks will be assessed and taken into account. The results of the comparison between the selected scenarios shall be summarised in a scorecard, highlighting in a comparative way their respective strengths and weaknesses in relation to the assessment criteria.

5.3.7 Task 3.6: Monitoring and Evaluation

For the most promising scenarios, the study team will identify and develop the indicators to be used for monitoring progress and achievement of the pursued objectives (taking into account the operational objectives identified in Task 3.3 and the implementation obstacles and associated risks identified in Task 3.5). The study team will also establish a timeline for the monitoring and evaluation (taking into account the nature and effect of the policy options retained as most promising).

5.3.8 Deliverables

- **Task 3.7: Submission of Draft Impact Assessment:** A draft of the impact assessment report (Module 2) and associated Executive Summary will be submitted within twenty four weeks after the signature of the contract (*assuming that Module 1 was satisfactorily concluded within the agreed time*). This report will provide a sound analysis of findings and factually based conclusions and recommendations, in line with the purpose and objectives described earlier and will be accompanied by an executive summary;
- **Task 3.8: Impact Assessment Meeting:** The draft impact assessment will be presented to and discussed with the Commission and stakeholders at a meeting to be held no later than thirty days after the submission of the draft impact assessment report;
- **Task 3.9: Drafting of Minutes:** Within one week after the meeting with the Commission Services, we will draft the minutes of the meeting(s) and submit them for endorsement by the Commission; and
- **Task 3.10: Final Impact Assessment:** Following the Impact Assessment meeting and receipt of comments on the draft impact assessment, the study team will submit a finalised Impact Assessment before the conclusion of the contract.

