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Judgments, rulings and decisions

Spain

Judgment no. 478/2020, of 23 December 2020, of Barcelona Companies Court no. 3. Unlawful advertising claim

This past quarter, judgement no. 478/2020 of Barcelona Companies Court no. 3 was published, upholding the claim filed by an individual against the commercial company "KIA MOTORS IBERIA, S.L." for an infringement of competition and advertising legislation. The claimant filed his claim against the said company after having formalised the purchase upon consultation of the financial conditions and terms applicable to the vehicle on the company's website, claiming that the purchase price that he finally paid did not match the amount advertised on the said website. In this regard, the Court found that there had been an infringement of the legislation on unfair competition and advertising, partially upholding the claimant's claims and ordering "KIA MOTORS IBERIA, S.L." to pay compensation of approximately 2,000 euros corresponding to the difference between the price actually paid by the individual and the amount offered on its website, to cease this unlawful conduct and to publish the judgment on the website of "KIA MOTORS IBERIA, S.L.".

In particular, the claimant jointly sued "KIA MOTORS IBERIA, S.L." and the dealership who formalised the sale of the vehicle. The dealership argued that it did not have standing to be sued as it was not a party to the conduct in question, an assessment which was upheld by the Court, thus not upholding the action brought by the individual against the dealership. On the other hand, "KIA MOTORS IBERIA, S.L." argued in its response that the advertising was not in effect at the time of the sale, that it did not engage in any unfair practice, and - finally - that the claimant purchased the vehicle in question with a series of extras which led to the increase in price.

The Court considered it proven, on the basis of Articles 6 and 7 of Directive 2005/29 concerning unfair business-to-consumer commercial practices, that the level of knowledge and critical judgment with which the claimant interpreted the advertisement on the defendant's website (that is, the reasoning of an average consumer), led him to take a transactional decision that he would not have taken otherwise, thus understanding as proven that the advertisement included by "KIA MOTOR IBERIA, S.L." contravened the prohibitions contained in the advertising legislation (the Advertising Act) and in the Competition Act (LCD). Consequently, as the Court considered that an act of deception had been committed by the aforementioned company, the Court ordered it to pay compensation to the claimant of approximately 2,000 euros; the amount requested by the claimant was reduced as the latter had requested the incorporation of additional equipment. On the other hand, the Court ordered the cessation of the unlawful conduct and ordered "KIA MOTORS IBERIA, S.L." to insert the said judgment on its website, in order to publicise the Court's decision.

Judgments nos. 35/2021 and 55/2021, 12 April 2021 and 19 May 2021, of Oviedo Companies Court no. 1. Trucks litigation, claims for damages

Important judgments insofar as, after many decisions relating to the numerous follow-on actions that are being brought in our country against the manufacturers sanctioned by the European Commission's Decision of 19 July 2016 in case AT.39824 - Trucks, Oviedo Companies Court no. 1 has incorporated into the debate a heretofore unprecedented and profound judicial reasoning. In some 15 different proceedings, the aforementioned court has reached the conclusion that "not only is there no proof of overcharging, but we consider it proven that there has not been any". And, consequently, it did not uphold, even in part, any of the claims.

In order to reach this conclusion, the judgments cited above rule out the possibility that the conduct described in the European Commission's decision can be interpreted as necessarily giving rise to damage. To that end, they analyse in detail and rigorously the description of the conduct contained in the Decision and point out:

"The decision, at most, presumes that, because of market share and turnover, the effects on the market are considerable (85). But we must not confuse the concept of "effects on the market" with the damage and, even less, with the individual damage. The Decision, in establishing this presumption, does so with express reference (note 57) to the Guidelines on the concept of effect on trade contained in arts. 81 and 82 TEC, to which the current 101 and 102 are heirs. And it does so for purely jurisdictional purposes. The aforementioned Guidelines seek to clarify the very concept of effect on trade between Member States, as a prerequisite for the application of Union law; the notion of "may affect" - we are told - implies that it must be possible to foresee with a sufficient degree of probability, on the basis of a set of objective factors of law or fact, that the agreement or practice may have an influence, direct or indirect, actual or potential, on the pattern of trade between Member States (23), with an impact on at least two of them (21). [...].

The concept of market effects is jurisdictional, not functional or empirical. A conduct may have an effect on trade and not necessarily translate into a price increase.

The categorisation of the cartel is secondary. There can be inefficient price-fixing cartels and price-sensitive information-transferring cartels. What is relevant is the test to be applied, in particular that of an econometric nature."

These judgments also rule out that the conduct described by the Commission must have affected the net prices of trucks, stressing that "[t]his is a cartel essentially of exchange of information, but not only. There was a systematic exchange of gross price information and gross price increases were routinely discussed (and, more exceptionally, agreed). What the Commission does not say is that this resulted in an increase in net prices or that the conduct affected net prices directly (or indirectly), [...]".

The Court also ruled on the alleged need for the defendant in a follow-on claim for damages to present a better-founded alternative quantification to that presented by the claimant when, as in this case, the existence of the damage is not proven by the simple administrative decision imposing a fine. Indeed, the Court considers that the Supreme Court's reference in its sugar cartel judgment to a "better-founded alternative quantification" is not applicable to the "truck case" but "must be understood within the context in which it was pronounced: a cartel [-the sugar cartel-] in which both the Competition Tribunal and, on review, the judicial review jurisdiction, found a concerted increase in prices to the final (industrial) customer to be proven: 4 pesetas/kg on 1 February 1995, the same as from April 1995 and 1 pesetas/kg on 1 May 1996. This case is quite dif-

ferent from the one at issue, since what was an established fact there is the main disputed fact here. It is sufficient to compare the account of the facts in the Commission's Decision with that of the CT to see the obvious differences between the truck cartel and the sugar cartel". And the Oviedo Court concludes expressly on this point: "This being so, the Supreme Court's censure of the cartelist's denial of the overcharge and the requirement that it justify a better-founded alternative quantification must not be understood in the truck cartel (in which there is no prior proof of the overcharge) as an impossibility (in terms of viability) of defending a zero overcharge, [...]".

Judgment no. 531/2021, of 20 April 2021, of the Supreme Court, among others, with the same arguments for other automobile manufacturers that appealed in cassation. Vehicle manufacturers' cartel: rejection of the appeal and ratification of the penalty imposed by the CNMC on the main vehicle manufacturers

The Supreme Court rejected the application for judicial review made against the decision issued in July 2015 by the Spanish Markets and Competition Authority (CNMC). In that regard, the applicants argue that the exchanges of information sanctioned by that supervisory authority in no case constituted agreements limiting competition, given that they did not relate to future prices or quantities, and that the CNMC's interpretation of the information and facts of those practices was inadequate, because it did not take into account the economic and legal context in which the agreement was made, nor the consideration of the goods or services concerned, the actual operating conditions and structure of the market, nor the more or less harmful nature of the exchange of information between competitors, aspects to be taken into account in order for it to be classified as a restriction "by object". The Supreme Court rejects these claims, and concludes that the anti-competitive effects of the agreement are assessed after an evaluation of the circumstances in which they occur, reasoning its decision by arguing that the conduct carried out by the companies sanctioned by the CNMC, consisting of the exchange of strategic information relating to business management, sales - and after-sales - of new and second-hand vehicles and marketing, constitutes a practice incompatible with the requirement of autonomy characteristic of the behaviour of companies on the market in a system of real competition. In addition, in accordance with case law on collusive agreements, the Court classifies this exchange of information as constituting a cartel, thus determining that the actions of the sanctioned companies constitute a serious infringement in accordance with Article 62 LDC. In this regard, the Court establishes that the legal definition of cartel includes agreements whose object "affects or may affect, either directly or indirectly" the conduct described by the provision of fixing prices, production or sales quotas, market sharing or restriction of imports or exports, and such an interpretation does not allow for the exclusion of those agreements from the concept of cartel, such as the exchanges of information examined in this action, which provide the participants in the sanctioned agreements with up-to-date and detailed knowledge of the composition of competitors' prices, with future projection and with the ability to influence the behaviour of undertakings in the market, and, in addition to the foregoing, the use of the conjunction 'or' in the legal definition supports the view held by the judgment of the lower court that additional provision 4.2 LDC does not use a closed list system in the definition of cartel.

It therefore ratifies the pronouncements of both the Audiencia Nacional and the CNMC, upholding the penalties initially imposed on the vehicle manufacturers.

Europe

Judgment of the Supreme Court of Austria, of 22 March 2021, Decision OGH 22.3.2021 (GZ 16 Ok 4/20d). Acknowledgment of anti-competitive practice and order to cease collusive behaviour

On 22 March 2021, the Austrian Supreme Court ruled that certain practices of a major automotive brand towards its dealers are contrary to Austrian law as an abuse of dominant position and contrary to competition law

Below is a diagram showing the practices judged by the Court on the basis of the requests made by the claimant Dealer, and the pronouncements of the adjudicator in this respect.

Legislation

Spain

Royal Decree 205/2021, of 30 March, amending Royal Decree 1085/2015, of 4 December, on the promotion of biofuels, and regulating the targets for the sale or consumption of biofuels for the years 2021 and 2022

The Royal Decree lays down as an obligation the necessary penetration of biofuels in total fuel sales in general. In particular, it sets the percentage at 9.5% by 2021, and 10% by 2020, in order to align with the scenarios and targets defined in the National Integrated Energy and Climate Plan (PNIEC), a plan that sets the minimum share of renewable energy in transport at 28% by 2030.

The Royal Decree is framed within the objectives laid down by the European Union for the year 2030, and is passed in response to the fact that the regulation in force until now only set quotas and percentages for the use of green energy until 2020. The regulation envisages the need to progressively increase the presence of biofuels in order to protect biodiversity and the health of ecosystems, which is why it sets different limitations on biofuels produced from raw materials of certain origins. In this sense, the Royal Decree supports the maximum contribution to reach the target of 7% of biofuels from food and fodder crops in final energy consumption in 2021 and 2022, in accordance with the requirements of the Renewable Energy Directive 2018/2001.

	Practices tried by the Austrian Supreme Court	Decision of the Court
Practices related to new vehicles supplied to the Dealer		
1.	The dealer argues in his claim that the car manufacturer demanded a number of investments (in infrastructure and brand image) which, in the claimant's view, are disproportionate.	The High Court, while acknowledging the burdensome nature of such investments, also considers that such behaviour has ceased.

	Practices tried by the Austrian Supreme Court	Decision of the Court
Practices related to new vehicles supplied to the Dealer		
2.	The dealer argues that the car manufacturer, in its capacity as licensor, fixed the economic conditions of sale of the new vehicles by organising different sales programmes (in which retail prices were usually set at a lower amount than originally listed). According to the dealership contract, the dealer was free to join each of the sales programmes offered. In this respect, the Dealer argues that such programmes were nothing more than a strategy of unilaterally restricting the free pricing of vehicles to dealers by means of economic coercion to participate in the commercial actions specified by the car manufacturer; by not participating in them, it made it excessively difficult to reach the sales targets set.	In this respect, it is worth highlighting -firstly- the pronouncement made by the Vienna Competition Court, which recognised the validity and condition of anti-competitive practices. In this regard, the Austrian Supreme Court established that, as it considered the practice to have ceased, it did not acknowledge the abuse of a dominant position, thus ordering the rectification of this point by the Viennese Court in its judgment.

	Practices tried by the Austrian Supreme Court	Decision of the Court
Practices related to new vehicles supplied to the Dealer		
3.	The Dealer also argues in its claim that the manufacturer offered a quality bonus to dealers whose customers were highly satisfied with the service received by those dealers, the level of satisfaction being measured by conducting customer surveys (by e-mail). The Dealer argued in its claim that in order to achieve these particularly high ratings, it was necessary to exert a high level of influence on customers, making the results to obtain the bonus - for practical purposes - unattainable.	The High Court considers that, at the time the Dealer filed the claim, this practice was still being carried out, and therefore - in addition to acknowledging its anti-competitive nature as a practice constituting an abuse of a dominant position - ordered its cessation.
4.	Again, in the claim, reference is made to another type of bonus for which dealers were eligible, namely the 'performance bonus', under which, if dealers achieved the sales target set, they would receive additional remuneration on the basis of their performance. In this respect, the Dealer argues that the targets set are so high that it is not possible to meet them.	The High Court also acknowledged the anti-competitive nature of this practice and, having established that it was in force at the time the claim was filed, ordered its cessation.

	Practices tried by the Austrian Supreme Court	Decision of the Court
Practices related to new vehicles supplied to the Dealer		
5.	The claimant describes the sales scheme followed by the dealers and the manufacturer. In particular, he states that the latter has a network of dealers owned by the manufacturer, with which it has established a series of agreements, given that the sales prices charged by this network are considerably lower than those charged by dealers who are not members of the network. Therefore, the claimant states in its claim that independent establishments (such as the Dealer), saw their business undermined by the aforementioned anti-competitive practice.	In that regard, the Austrian Supreme Court acknowledged the unlawfulness of the practices of the manufacturer's affiliated dealer network and ordered its immediate cessation. However, the Court also acknowledged that the behaviour had ceased, which is why it did not include an injunction to cease it in its decision.
Practices related to the operation of vehicle repair workshops		
1.	In its claim, the dealer refers to the manufacturer's practices regarding the conditions for carrying out repairs on vehicles under warranty. The claimant states that the manufacturer imposes on the dealers (who have a workshop for the repair and maintenance of such vehicles) the obligation to carry out the aforementioned repair work, in accordance with a series of fixed conditions. These conditions were that the 'standard' price for repairs under warranty was set at the amounts charged by those repairers whose labour was cheapest, making warranty repairs economically unviable for those repairers whose labour was more expensive. Furthermore, the claimant claims that the manufacturer exerted economic pressure to process as few warranty repairs as possible.	The Austrian Supreme Court acknowledges that such practices with regard to vehicle repairs made the economic profitability of such work unfeasible, and therefore orders the immediate cessation of such behaviour. However, it does not acknowledge that the manufacturer exerted economic pressure on the dealers to carry out as few warranty repairs as possible.

	Practices tried by the Austrian Supreme Court	Decision of the Court
Practices related to the operation of vehicle repair workshops		
2.	The Dealer further states that the manufacturer had established a series of scales estimating the time and cost necessary to carry out certain warranty repairs; the manufacturer was obliged to reimburse the dealers for the amount of hours they incurred in carrying out warranty repairs. The Dealer states that the hours and rates imposed by the manufacturer were 'impracticable' given that both the time and the actual costs of such repairs are considerably higher than the times set out in the manufacturer's scales, making it uneconomical to carry out such work.	In this regard, the Supreme Court acknowledges the unlawfulness of this practice and orders its immediate cessation
3.	The claimant also states in his claim how the manufacturer provided dealers with the fault diagnosis devices necessary to carry out repairs under warranty. The Dealer argued that the amount charged by the manufacturer to the dealers was much higher than the normal market price for such devices. Furthermore, the manufacturer charged a fee for dealers to have access to the technical information necessary to carry out repairs on vehicles.	As the Austrian Supreme Court considered that this practice had ceased, it did not uphold the Dealer's claim.

	Practices tried by the Austrian Supreme Court	Decision of the Court
Internships related both to new vehicles and to the operation of vehicle repair shops		
1.	In his claim, the Dealer claims that the manufacturer charged dealers a disproportionately high fee for the training of their staff (for the sale of new vehicles and repair work), and also included in these costs the *mystery shopping* and *mystery leads* services contracted by the manufacturer to verify the correct assimilation of the concepts by the staff of the dealers and their workshops.	As with the previous practice, the Austrian Supreme Court did not find the manufacturer liable on the basis of this practice, as it considered that the practice had ceased.

Finally, in order to prepare for the transition to advanced biofuels, thereby reducing the impact of indirect land use change, the Royal Decree establishes targets for the penetration of advanced biofuels, indicatively at a rate of 0.1% by 2021 and mandatorily at a rate of 0.2% by 2022.

Royal Decree 265/2021, of 13 April, on end-of-life vehicles and amending the General Vehicle Regulation, approved by Royal Decree 2822/1998 of 23 December

This Royal Decree includes the different regulations outlined by the Directorate-General for Traffic ("DGT") in the field of end-of-life vehicles and particularly includes the points relating to the procedure to be followed in order to process the deregistration in the Official Register of the Directorate-General for Traffic. Among the changes introduced by this Royal Decree, it is worth highlighting, firstly, the distinction between the term "end-of-life vehicle" and "end-of-life automobile", insofar as the former includes all vehicles that can be registered with the DGT, while the latter refers exclusively to those vehicles corresponding to categories M1, N1 and L5e. Based on this differentiation, the Royal Decree establishes requirements applicable to vehicles and automobiles considering the particularities of each of these, including the models of certificate of delivery, destruction and environmental treatment.

Among the changes introduced by this regulation, it is worth highlighting the reinforcement that it makes with respect to the Authorised Treatment Centres ("CAT"), imposing a series of obligations on them. On the one hand, these treatment centres must send to an authorised manager for the shredding of end-of-life vehicles those components, parts or pieces of these

vehicles prepared for reuse that have not subsequently been placed on the market. In this sense, this Royal Decree establishes as a requirement that such components, parts or pieces include an attached certificate accrediting that they have been duly prepared for reuse by a CAT, and that they come from vehicles deregistered by the DGT, maintaining their functionality and safety.

On the other hand, among the obligations provided for CATs, the present regulation establishes the obligation of a deposit and to take out insurance (or a financial guarantee) given their status as hazardous waste managers.

In addition, the aforementioned regulation includes the minimum qualification required for those professionals in charge of handling electric and hybrid vehicles, particularly with regard to battery removal.

Finally, the Royal Decree includes a series of changes relating to the "temporary deregistration of vehicles", establishing a period of one year for the deregistration from the DGT's Official Register of vehicles declared "total loss", and establishing the obligation to submit vehicles for export to a technical vehicle inspection in order to avoid the appearance of vehicles unaccounted for.

Royal Decree-Law 7/2021, of 27 April, on the transposition of European Union directives in the areas of competition, prevention of money laundering, credit institutions, telecommunications, tax measures, prevention and repair of environmental damage, posting of workers in the provision of transnational services and consumer protection

The aforementioned Royal Decree was passed on 27 April with the aim of transposing a number of EU Directives into the legal system. In this regard, the transposition of Directive (EU) 2019/770, of 20 May 2019, on certain aspects of contracts for the supply of digital content and digital services, and Directive 2019/771, of 20 May 2019, on certain aspects concerning contracts for the sale of goods, which incorporate a series of amendments, among others, in relation to: (a) the extension of the time limit for the expression of lack of conformity in respect of consumer goods; (b) the extension of the term within which a lack of conformity is presumed to exist in respect of such goods; (c) the requirements for the provision of repair services; and (d) the extension of the time limit for the availability of spare parts from the cessation of manufacture of a given good. The purpose of the amendments introduced is to ensure adequate safety conditions for consumer goods and to establish minimum requirements for the durability of such goods. Along these lines, some of the amendments introduced in this respect are the following:

— In the case of sale of goods or supply of digital content or services, in a single act or in a series of individual acts, the trader **shall be liable for any lack of conformity** which exists at the time of delivery or supply and which becomes apparent within **three years** (previously two years) in the case of **goods** or **two years in the case** of **digital content or services** (new wording).

— The extension of the period in which the presumption of non-conformity of a good operates from six months to **two years after** the delivery of the good and to one year in the case of the supply of digital content or services.

— Extension of the limitation period for claims of non-conformity with a given good from **three to five** years.

— Finally, for the **availability of spare and replacement parts**, as well as the adequate provision of **technical services**, the period is extended **from five to ten years** from the date on which the goods cease to be manufactured.

Draft Royal Decree regulating the interoperability of toll systems on Spanish highways

This draft regulation envisages the transposition into Spanish law of the provisions contained in Directive (EU) 2019/520 of the European Parliament and of the Council of 19 March 2019 on the interoperability of electronic road toll systems and facilitating cross-border exchange of information on the failure to pay road road fees in the Union. In this respect, the Ministry of Transport, Mobility and the Urban Agenda justifies this draft Royal Decree on the basis of the disparity between the technological evolution of electronic toll systems (at European level) and the regulatory framework currently in force. Consequently, the main objectives pursued by the regulation are: (a) the establishment of the necessary conditions to guarantee the interoperability of the electronic toll systems installed on Spanish roads and motorways with those of other EU Member States; and (b) the regulation of the European Electronic Toll Service, which will be established as supplementary to the national electronic toll services.

Entry into force of Royal Decree 970/2020, of 10 November, amending the General Traffic Regulations, approved by Royal Decree 1428/2003 of 21 November and the General Vehicle Regulations, approved by Royal Decree 2822/1998, of 23 December, on urban traffic measures

On 11 May, Royal Decree 970/2020 came into force, which modified the maximum permitted speed on urban roads in the General Traffic Regulations (Royal Decree 1428/2003 of 21 November), in which the generic limit of 50 km/h on urban roads has been replaced by the following limitations:

(a) For one-way urban roads, where the carriageway and the footway are at different heights, the maximum limit is set at 30 km/h.

(b) In addition, for urban roads where the carriageway and the footway are at the same height, the new Royal Decree sets the maximum speed at 20 km/h.

(c) Notwithstanding the above, roads with two or more lanes in each direction are exempted from the new general limit of 30 km/h for urban roads, with the maximum limit of 50 km/h being maintained for the latter cases.

In addition, with the entry into force of the aforementioned Royal Decree, the following traffic rules are also included:

— For the counting of lanes that will make up the 30 km/h limited lanes, it is established that those lanes reserved for certain users or exclusive use of public transport will not be counted for this purpose.

— In addition, the general limit of 30 km/h on one-way urban roads may be modified by Local Authorities as long as they have specific signage.

— On the other hand, this regulation provides that the limit provided for urban roads with two or more lanes in the same direction may be reduced by Local Bodies provided that this limit is duly signposted.

— Finally, it is provided that the generic speed limit on motorways and dual carriageways that run within a population centre is 80 km/h, and that this limit may be extended by Local Authorities as long as there is adequate signage.

Climate Change and Energy Transition Act 7/2021 of 20 May

On 20 May, the Lower House of Parliament passed this Act with the aim of achieving the objectives set out in the 2015 Paris Agreement to reduce greenhouse gas emissions in Spain. In this sense, the main developments related to the automotive sector are structured in three main pillars:

(a) Regulation of vehicles powered by internal combustion engines (diesel and petrol): the aim is to achieve a passenger car and light commercial vehicle fleet with no direct carbon dioxide emissions by 2050. To this end, passenger cars and light commercial vehicles powered by internal combustion engines are to be banned by 2040 at the latest. To this end, the Act provides for a gradual reduction of emissions and includes measures to encourage research and development.

(b) As far as urban mobility is concerned, the Act provides that municipalities with more than 50,000 inhabitants (or 20,000 in municipalities with poor air quality) must adopt sustainable urban mobility plans - similar to those implemented in cities such as Madrid or Barcelona - that include low-emission zones.

(c) Finally, in the quest for the decarbonisation of the Spanish vehicle fleet, the Act provides the following measures in relation to electric vehicles:

— It provides for the creation of an information platform on electric recharging points, integrated within the National Access Point for Traffic Information of the Directorate-General for Traffic, which will provide information on public recharging points.

— It also sets out the obligation for service station owners and concessionaires of state road networks to install electric recharging infrastructures. In particular, it establishes that those owners of service stations (fuel and fuel supply) whose aggregate volume of petrol and diesel A sales in 2019 is equal to or greater than 10 million litres or equal to or greater than 5 million litres, but less than 10 million litres, must install, at each service station, at least one electric recharging infrastructure (with a power equal to or greater than 150 kW in direct current in the case of a volume greater than 10 million litres and 50 kW in the case of a volume of between 5 and 10 million litres).

  On the other hand, owners of new service stations (or those who undertake a refurbishment) must have at least one electric recharging infrastructure with a capacity equal to or greater than 50kW.

  In relation to the holders of state road network concessions, the Act provides that the details relating to electric recharging points will be established by regulation.

— Finally, in order to promote and stimulate the use of electric vehicles, the Act provides for an amendment to the Spanish Building Code to include the obligation to install electric charging points in new buildings.

In addition, all buildings for private non-residential use with a parking area of more than twenty parking spaces must comply with the provisions of the Spanish Building Code for electric charging points.

Finally, the Act provides for an amendment to the Commonhold Act with the aim of facilitating and making more flexible the installation of self-consumption of electricity facilities by residents' associations.

Regions

Draft Bill on Sustainable Mobility in the Basque Country

On 14 April last, the Director of Transport Planning submitted the aforementioned preliminary draft for public consultation. The aim of the draft is to lay down the principles and objectives to which the transport of persons and goods must respond in order to achieve a sustainable fleet of vehicles in the Basque Country, and the organisation of the appropriate instruments between the competent bodies to achieve the aforementioned objective. In particular, this legislative proposal specifies the following sustainable mobility objectives: (a) the configuration of an integrated transport system in the aforementioned region; (b) the promotion of an innovative transport system; (c) the contribution to the reduction of the environmental impact of transport; (d) the proposal of measures to discourage the use of private vehicles; (e) the prioritisation of public transport powered by renewable energy; (f) the promotion of territorial balance in the Basque Country; (g) the promotion of intermodality and computerisation of means of transport; and (h) the articulation of a system of inter-administrative relations organised by means of a structural planning method. In order to achieve the aforementioned aims, the draft regulation establishes the distribution of powers between the different bodies that make up the administration of the 'autonomous community' (region). In particular, the Basque Executive will ensure compliance with the instruments to be implemented in the Sustainable Mobility Plan of the Basque Country, while the 'Foral' (Provincial) Councils will be responsible for developing the aforementioned Mobility Plan, and finally, the local corporations will be responsible for planning the urban mobility policy.

Europe

Commission Implementing Regulation (EU) 2021/392 of 4 March 2021 on the monitoring and reporting of data relating to CO_2 emissions from passenger cars and light commercial vehicles pursuant to Regulation (EU) 2019/631 of the European Parliament and of the Council and repealing Commission Implementing Regulations (EU) No 1014/2010, (EU) No 293/2012, (EU) 2017/1152 and (EU) 2017/1153

The Regulation sets out rules on the procedures for the monitoring and reporting by Member States and vehicle manufacturers of CO_2 emissions data from new passenger cars and light commercial vehicles, as well as of real-world CO_2 emissions and fuel (or energy) consumption data of those vehicles.

In particular, Member States will have to report the above data, in aggregate form, to the European Commission and the European Environment Agency, and will have to ensure that vehicle testing establishments collect information on fuel and energy consumptions obtained under real driving conditions. The Regulation establishes that this information will be collected through

the electronic vehicle connection interface from vehicles registered from 1 January 2021, including information on the vehicle identification number, average CO_2 emissions, fuel and/or electrical energy consumed, total distance travelled and, for vehicles with more than one energy system, the amount of fuel and/or energy consumed as well as the total distance travelled with each of these systems.

Report from the Commission to the European Parliament and the Council on the application of Directive 2014/94/EU on the deployment of alternative fuels infrastructure

On 8 March, the European Commission submitted a report to the Council of the European Union setting out the results of the assessment of action taken by Member States in the implementation of Directive 2014/94/EU on the deployment of alternative fuels infrastructure and the development of markets for alternative fuels and alternative fuels infrastructure in the Union (the "Directive").

The Commission carried out an assessment of the various national implementation reports submitted by Member States under the Directive, building on interactions with Member States in the design of that assessment. These assessments show that full implementation of planned targets and measures by Member States would lead to an infrastructure roll-out by 2030 that - looking at the aggregated numbers - could potentially support a fleet of alternative fuels vehicles that is in line with projections under a pathway meeting a 40% overall greenhouse gas emission reduction in the EU. Notwithstanding this, the current deployment is not leading to a comprehensive and complete network coverage of easy-to-use infrastructure throughout the Union, as the plans implemented by each Member State fall far short of a harmonised EU regulatory framework.

In sum, the report gives a positive assessment of the implementation of the Directive in the Member States, highlighting that it has had a positive impact on the uptake of alternatively fuelled vehicles and their infrastructure. However, the shortcomings of the current policy framework are also visible in that there is no detailed and binding methodology for Member States to calculate targets and adopt measures.

Draft Commission Delegated Regulation (EU) concerning test procedures and technical requirements for the implementation of intelligent speed assistance in vehicles

This draft delegated regulation is part of Regulation (EU) 2019/2144 of the European Parliament and of the Council, which requires motor vehicles of categories M and N to be equipped with intelligent speed assistance ("ISA") systems from 6 July 2022 for new vehicle types and from 7 July 2024 for all new vehicles.

In this respect, the draft Delegated Regulation provides for four feedback methodologies to base such ISA systems (which will depend on the type of propulsion and transmission of each particular vehicle): (i) the haptic feedback system which relies on the pedal restoring force: Driver's foot will be gently pushed back in case of over-speed, which will help to reduce speed (and can be overridden by the driver); (ii) the speed control system which relies on engine management: Automatic reduction of the propulsion power independent of the position of drive's feet on the pedal (but that can also be overridden by the driver easily); (iii) the cascaded acoustic warning: 1st step – flash an optical signal -, 2nd step - after several seconds, if no reaction from

the driver, the acoustic warning will be activated (if the driver ignores this combined feedback, both warnings will be timed-out.); (iv) the cascaded vibration warning: 1st step – flash an optical signal -, 2nd step - after several seconds, if no reaction from the driver, pedal will vibrate (if the driver ignores this combined feedback, both warnings will be timed-out).

In the Commission's own words, there is currently no conclusive evidence as to which of the four proposed feedback technologies will be significantly more effective or less annoying in real-world driving conditions; rather, the evidence currently available reflects primarily laboratory-based simulation. In this respect, the draft Regulation states that the effectiveness and reliability of the different ISA systems should be assessed once a sufficient number of motor vehicles equipped with such systems have been placed on the market and the relevant real-life experience is available. The Commission establishes the need for this assessment to be carried out as soon as possible (no later than 31 December 2025) on the basis of information provided by the vehicle manufacturers and approval authorities of the Member States.

Draft Delegated Regulation supplementing Directive 2014/94/EU of the European Parliament and of the Council with regards to standards for recharging points for electric buses

Directive 2014/94/EU established that technical specifications for the interoperability of recharging points for buses should be specified in European or international standards, and the European Commission submitted for public consultation on 23 March the aforementioned draft Delegated Regulation aimed at standardising the technical requirements for recharging points for electric buses. In particular, the Commission submitted a request to the European Committee for Standardization ("CEN") and the European Committee for Electrotechnical Standardization ("Cenelec") in order to achieve such standardisation. On the basis of this request, the aforementioned committees issued their assessments for the standardisation of such recharging points, which the European Commission has compiled in the draft Delegated Regulation which is the subject of this public consultation.

In this respect, the guidelines set by CEN and Cenelec in the draft Delegated Regulation are threefold: (i) high power AC recharging points for electric buses shall be equipped with at least Type 2 connectors, as described in the standard EN 62196-2 (Type 2 connectors are those that allow single-phase charging from 16 A to three-phase 400V and 63 A, which means being able to work with AC charging in power ratings from 3.7 kW to 44 kW); (ii) high power DC recharging points for electric buses shall be equipped, as a minimum, with the combined charging system "Combo 2" as described in the standard EN 62196-3 ("Combo 2" systems combine Type 2 connectors with two contacts for 'super fast' DC charging); and (iii) contact interface automated devices for electric bus recharging, relating to automated connection devices, shall be equipped with mechanical and electrical interfaces as defined in the standard EN 50696.

Commission Implementing Regulation (EU) 2021/546 of 29 March 2021 and Commission Implementing Regulation (EU) 2021/582 of 9 April 2021 imposing anti-dumping duties and definitively collecting the provisional duty imposed on imports of aluminium extrusions originating in the People's Republic of China

The Regulations impose a series of anti-dumping duties on aluminium extrusions originating in the People's Republic of China, following a

complaint lodged with the Commission by the association "European Aluminium", which requested the imposition of these measures, given the observation of increasing Chinese exports of aluminium extrusions at prices below market prices. At the end of its investigation, the Commission confirmed the existence of price dumping on these exports from China and, on 29 March, adopted as a measure: "[the imposition of] a definitive anti-dumping duty on imports of bars, rods, profiles (whether or not hollow), tubes, pipes; unassembled, whether or not prepared for use in structures (e.g. cut-to-length, drilled, bent, chamfered, threaded, made from aluminium, whether or not alloyed, containing not more than 99.3 % of aluminium". On 9 April 2021, it adopted as a measure: "[the imposition of] a provisional anti-dumping duty on imports of aluminium products, flat rolled, whether or not alloyed, whether or not further worked than flat rolled, not backed, without internal layers of other material".

United Nations

UN Regulation No 155 – Uniform provisions concerning the approval of vehicles with regards to cybersecurity and cybersecurity management system [2021/387]

This Regulation unifies the requirements necessary for the approval of vehicles (type M and N) in relation to their cybersecurity, as well as the systems for their management. In particular, it establishes the parameters that vehicles must comply with, describing, on the one hand, the threats, vulnerabilities and attack methods, on the other hand, the mitigation measures that vehicles must have and, finally, the mitigation measures for non-vehicle aspects. This Regulation includes instructions on the submission of applications for approval and specifications that vehicles must pass in tests, establishing the way in which these tests will be carried out to determine the cybersecurity of these vehicles.

UN Regulation No 156 - Uniform provisions concerning the approval of vehicles with regards to software update and software updates management system [2021/388]

This Regulation unifies the requirements for the type approval of vehicles with regard to the requirements for the update of vehicle software. The purpose of these type approval requirements is that the manufacturer has implemented measures to ensure that these updates are adequately protected against manipulation prior to the update process. The Regulation includes instructions on the submission of applications for type approval and specifications to be met by the vehicles in the tests, setting out how the tests are to be carried out to determine the safety of the software update methods available to the vehicles.

UN Regulation No 157 - Uniform provisions concerning the approval of vehicles with regards to Automatic Lane Keeping Systems [2021/389]

This Regulation unifies the parameters necessary for the approval of vehicles with regard to the requirements to be fulfilled by automatic lane change systems. In particular, it establishes those criteria which ensure that the automatic lane keeping system meets the performance requirements (i.e. that they are activated at the appropriate time, and ensure a level of intervention such that the safety of drivers is not compromised). This Regulation includes instructions on the submission of applications for type-approval and specifications to be passed by vehicles in

tests, setting out how the tests are to be carried out to determine the safety of the lane changing systems fitted to these vehicles.

Public consultation

Prior public consultation on the draft bill transposing Directive (EU) 2019/1161 of the European Parliament and of the Council of 20 June 2019 amending Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles

On 13 May, the Ministry of Transport, Mobility and the Urban Agenda submitted the draft bill for the transposition of Directive (EU) 2019/1161 to public consultation. In order to contribute to a sustainable, safe, competitive energy system that aims to decarbonise and reduce emissions from the Spanish vehicle fleet, the Executive seeks the opinion of the most representative subjects and organisations potentially affected by the future regulation, which aims to set minimum targets for the public procurement of clean vehicles to be achieved in two reference periods, ending in 2025 and 2030, respectively, for the Member States. This new legislation will, in turn, aim to increase the demand for clean vehicles through public procurement.

Public consultation on the review of European consumer credit legislation

The European Commission launched a public consultation on the review of European consumer credit legislation, in particular the Consumer Credit Directive (EC) 2008/48, with the aim of addressing the problems that the Commission itself considers to be present in this legislation.

On the one hand, it states that the scope of the current legislation is inadequate, since the emergence of new players on the credit market (such as P2P platforms) and new forms of consumer credit (such as short-term loans, high-cost loans and instant micro-credit, often under the EUR 200 threshold) have led to the emergence of new challenges for consumer protection, thus requiring - in the Commission's view - a review of the scope of application of this legislation, to avoid such new business and credit models falling outside the scope of consumer protection legislation.

On the other hand, the Commission focuses its attention on the content and information provided in such credit agreements, setting out as a problem to be addressed the fact that, currently, information requirements in advertising and at the pre-contractual stage do not reflect the increasing use of digital devices (such as tablets or smartphones) in credit agreements. It also emphasises that certain practices of credit providers (such as pre-ticking boxes and making credit products available at the click of a button) can use behavioural biases to encourage consumers to make unhelpful decisions and highlights that the information provided to consumers in accordance with Directive 2008/48 is often too complex to be understood, reinforcing the need to simplify its content in the interests of a stronger consumer protection regime.

Likewise, the revision of the current legislation aims to implement responsible loan (or credit)

guarantee mechanisms, reinforcing the requirements for assessing the solvency of consumers, as the Commission understands that these aspects lack exhaustive regulation within the current legislation.

Lastly, the Commission establishes the need to incorporate into the current regulatory framework provisions that take into account exceptional scenarios affecting consumers, such as the occurrence of economic difficulties in the payment of loans or credits.

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