

## **Rules of Procedure of the Advisory Council at the Kraftfahrt-Bundesamt**

Status: 25.09.2018

### **Entry formula**

The Advisory Council at the Kraftfahrt-Bundesamt (KBA) adopted the following Rules of Procedure on 25th September 2018.

### **Preamble**

The establishment of an advisory board at the KBA is connected with the further intensification of the KBA's testing activities in the context of granting type approvals and market surveillance, with the aim of basing the KBA's actions in this regard on an even broader knowledge base. The advisory board is to contribute to the continuous adaptation of the KBA's testing activities to the development of new technologies and to ensure a significant increase in the transparency of the authority's work. In this context, the advisory board has an advisory function.

On 2nd August 2017, the National Diesel Forum adopted a declaration by the federal and state governments which includes the mandate to support the KBA by establishing an advisory board. In addition to the tasks assigned to the KBA by law, the advisory board is to support the KBA in order to also take into account consumer interests and overriding environmental interests. The relevant issues arising in connection with the granting of type approvals and the implementation of market surveillance are to be discussed and the KBA advised in this regard.

The members should have special experience in the field of vehicle technology, consumer protection, environmental protection, vehicle safety and the existing regulations in this regard. The advisory board should be interdisciplinary in its membership structure. This composition takes into account the diverse economic, technical and socio-political aspects.

### **§ 1 Tasks**

The tasks of the advisory board include:

- (a) Advising the KBA on activities related to the granting of type approvals and related control procedures as well as market surveillance;

- (b) Advising on the setting of priorities for the implementation of market surveillance of vehicles in the areas of environmental protection and safety, taking into account consumer, data protection and environmental interests and current developments in motor vehicle technology;
- (c) Recommendations regarding transparent consumer-friendly presentation of decisions of the KBA;
- (d) recommendations on the implementation of the aforementioned tasks by the KBA;
- (e) recommendations on consumer issues arising in connection with diesel vehicles and on the basis of its own findings as well as on issues arising from citizens' enquiries pursuant to § 18.

## § 2 Members

- (1) The Advisory Council shall consist of 14 to a maximum of 17 members.
- (2) The Advisory Council shall be composed of the following members:
  - (a) one representative of each of the Federal Ministries concerned (Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU), Federal Ministry of Justice and Consumer Protection (BMJV), Federal Ministry of Transport and Digital Infrastructure (BMVI) and Federal Ministry for Economic Affairs and Energy (BMW));
  - (b) one representative of each of the associations nominated by the Federal Ministries; each Federal Ministry shall nominate two associations representing its interests in the respective area of responsibility; however, companies or their representatives which could be addressees of requirements of the KBA may not become members;
  - (c) one representative of the Federal Highway Research Institute (BAST) and the Federal Environment Agency (UBA);
  - (d) up to two representatives of the scientific community, each proposed by the BMW and BMVI and by the BMJV and BMU.
- (3) The members of the Advisory Council shall
  - (a) as representatives of their interest group (ministries, associations) or
  - (b) as experts in a specific field.
- (4) Membership of the Advisory Council is a personal honorary office. The members of the advisory board shall be reimbursed for necessary expenses in accordance with the applicable provisions of the Federal Travel Expenses Act.

### § 3 Participation of the KBA

The President of the KBA, two representatives of the KBA nominated by him, who alternate depending on the concrete topics, and a representative of the management shall participate in the meetings of the advisory board as participants.

### § 4 Experts and guests

(1) The advisory board may consult experts (experts) on specific issues with a simple majority of all votes of the members, who are particularly qualified for the topic to be dealt with.

(2) These experts shall be reimbursed for necessary expenses in accordance with § 2 paragraph 4 sentence 2.

(3) At the suggestion of one of the Federal Ministries represented on the Advisory Council, a guest may be invited to attend the meetings of the Advisory Council on special issues.

(4) Guests shall be reimbursed for necessary expenses in accordance with § 2 paragraph 4 sentence 2.

### § 5 Appointment of the members

(1) The members of the advisory board shall be appointed personally by the President of the KBA in agreement with the coordinating technical supervision unit of the BMVI.

(2) In exceptional cases, the President of the KBA may decide for good cause that a personally appointed member may be represented.

(3) The appointment shall be made for a period of 5 years. A renewed appointment is permissible once.

(4) For the appointment of new members, the President of the KBA shall consult the Advisory Council on all proposals.

### § 6 Resignation of members

(1) Members may resign from office prematurely by declaration to the chairperson.

(2) If a member resigns from the interest group which nominated him/her, his/her term of office on the Advisory Council ends.

(3) If a member resigns from the Advisory Board before the end of his or her term of office, a successor shall be appointed for the remaining term of office.

(4) The confidentiality obligation of the members according to § 14 shall also apply after leaving the Advisory Council.

## § 7 Chairmanship

(1) The chair and the deputy chair shall be elected from among the members of the advisory board on the proposal of the president of the KBA by its members for a period of 5 years.

(2) The person who receives two thirds of all votes of the members shall be elected.

Re-election is permissible. Until the election of a chairperson, the meeting shall be chaired by the President of the KBA.

(3) In case of early retirement from the office of the chairperson, a new chairperson shall be elected.

## § 8 Management

(1) The KBA shall be responsible for the management of the advisory board.

(2) The office shall be responsible for purely organisational tasks, such as supporting the Advisory Council in the preparation and follow-up of meetings, accepting and forwarding enquiries and updating the website on the instructions of the Advisory Council.

(3) The management shall inform the chair (§ 7) and the president of the KBA about the topics that have been brought to the attention of the KBA in the context of citizens' enquiries according to § 18 before the agenda is prepared.

## § 9 Convening of the advisory board

(1) The Advisory Council shall be convened twice a year by the President of the KBA.

(2) The meetings shall be hosted by the KBA and shall take place at its headquarters in Flensburg.

(3) The invitations to the meetings shall be sent electronically by the management at least 21 days before the scheduled meeting, enclosing the agenda, with the possibility to make suggestions for the agenda; in exceptional cases this may be waived.

(4) The final agenda shall be sent electronically by the Executive Board at least 7 days before the date of the meeting.

(5) Extraordinary meetings may be held if the Chair, at least 6 members, the KBA or the Federal Ministry of Transport and Digital Infrastructure deem this necessary.

## § 10 Agenda

(1) The Chair shall draw up the proposed agenda in consultation with the President of the KBA. The wishes of the members, the Federal Ministry of Transport and Digital Infrastructure and the KBA to discuss certain topics shall be taken into account when drawing up the agenda.

(2) The advisory council shall be informed about topics within the scope of citizens' enquiries pursuant to § 18 by sending the agenda prior to the respective meeting.

#### § 11 Meeting

- (1) The meetings of the advisory board are not public.
- (2) The Chair or the Vice-Chair shall open, chair and close the meeting.
- (3) At the beginning of each meeting, the President of the KBA shall inform the Advisory Council about important matters of the KBA.

#### § 12 Quorum and passing of resolutions

- (1) The Advisory Council shall constitute a quorum if two thirds of its members are present.
- (2) Each member shall have one vote.
- (3) Proposals for decisions can usually be drafted in sub-working groups to be formed and presented to the Advisory Council. Discussion of the decision proposals shall take place in the Advisory Council. The decision proposal is accepted if a simple majority of all members agrees.
- (4) In addition, the Advisory Council may set out the results of its deliberations in recommendations.

#### § 13 Conflicts of interest

Any conflicts of interest of individual members resulting from the Advisory Board's topic of deliberation shall be communicated to the Chair before the meeting begins. The Advisory Board shall decide by two-thirds of all its votes, in the absence of the person concerned, on the participation of the member in the deliberations and the adoption of resolutions.

#### § 14 Confidentiality

- (1) The members, the participants of the KBA, guests as well as the experts called in by the Advisory Board are obliged to maintain confidentiality about the deliberations and the contents of the information given to the Advisory Board.
- (2) The information required for the activities of the advisory board shall be made available to the advisory board by the KBA. The disclosure of company and business secrets, personal and personal-related data and classified information is excluded.
- (3) The members shall ensure, in particular in the electronic procedure, that no unauthorised persons have access to the data covered by the duty of confidentiality.

(4) In case of violation, the Advisory Council may decide on the permanent exclusion from the Advisory Council in the absence of the person concerned, provided at least two thirds of the votes are in favour.

#### § 15 Minutes

(1) Minutes shall be taken of each meeting of the Advisory Board by the management of the Advisory Board.

(2) The minutes shall be forwarded electronically by the management to the members, the parties involved in the KBA and, if applicable, to the experts consulted in the parts concerning them four weeks after the end of the meeting, at the latest when the final agenda of the following meeting is sent.

#### § 16 Independence from instructions

The Advisory Council shall be independent in its activities.

#### § 17 Publication

A rubric "Advisory Board" shall be set up on the KBA website, in which the Advisory Board and its members shall be presented and the rules of procedure, results of deliberations and recommendations to the KBA shall be published.

#### § 18 Questions from citizens to the advisory board

The answer to questions arising in connection with the Advisory Council and its publications shall be provided by the management in agreement with the Chair of the Advisory Council.

#### § 19 Adoption of and amendments to the Rules of Procedure

Adoption of and amendments to the Rules of Procedure shall require the approval of the members by resolution passed with two-thirds of all votes of the members.

#### § 20 Establishment

The Advisory Council shall initially be established for a probationary period of one year. To carry out the evaluation for this period, the President of the KBA shall commission an independent third party in agreement with the coordinating specialist supervisory unit responsible for the KBA. After the evaluation report is available, the ministries involved shall decide on the structure of the advisory board.

§ 21 Entry into force

The rules of procedure shall enter into force on the day the resolution is passed and shall be published on the KBA's website in the area of the advisory board pursuant to § 17.