



Department  
for Transport

# Government response to the consultation on proposals to regulate CO<sub>2</sub> emission performance standards for new passenger cars and light commercial vehicles in the UK

Moving Britain Ahead

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# Introduction

- 1 On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. The UK remains a full member of the European Union until 29 March 2019 and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of the exit negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU. The plans set out in this response only apply in the event of no deal when the UK exits the EU.
- 2 Emissions of CO<sub>2</sub> from new passenger cars and light commercial vehicles registered in Europe each year (registrations) are governed by two EU regulations – (EC) 443/2009 which regulates the CO<sub>2</sub> emissions of new M1 vehicles (passenger cars) sold into the EU market; and (EC) 510/2011 which regulates the CO<sub>2</sub> emissions of new N1 vehicles (light commercial vehicles) sold into the EU market.
- 3 These set out:
  - mandatory annual fleet CO<sub>2</sub> emissions targets for new cars and vans registered in the EU, Iceland, Liechtenstein and Norway; and
  - specific CO<sub>2</sub> emissions targets for each manufacturer's fleet.
- 4 In the event of a no deal scenario, without action by the Government, new vehicle registrations in the UK would continue to fall under the scope of these regulations. As such EU Regulations 443/2009 and 510/2011 would need to be brought into UK legislation. Therefore the Department for Transport (DfT) is laying a statutory instrument to ensure legislation works in a UK context and to correct 'inoperabilities' within a revised text of both EU regulations.
- 5 The proposed changes were subject to a public consultation between 6 November and 28 November 2018. In support of the consultation, meetings were offered to interested parties to explain and discuss the proposals. Meetings were held with vehicle manufacturers following requests.
- 6 A total of seven responses were received to this consultation. The Government is grateful for the responses received and values the evidence and opinions submitted. A list of organisations who submitted a response is at Annex 1.
- 7 All the responses to this public consultation have been recorded and analysed. The following sets out a summary of the views received and the Government's response.

# Consultation response

- 8 A number of responses referred to how any future UK CO<sub>2</sub> emission reduction standards regime should function and what should be included. As noted in paragraph 20 of the consultation document, “the European Union Withdrawal Act provisions require that Ministers can only amend the UK statutory instrument for inoperabilities.” Comments outside of these constraints have therefore not been considered as part of this consultation. The following therefore focuses on the Government’s response to the issues raised that were in scope of the consultation and offers further clarification on a number of issues.

## UK targets and specific emissions of CO<sub>2</sub> formulae

- 9 In the main, consultees agreed that the proposals would provide a business as usual approach and certainty to stakeholders while ensuring that the UK regime is at least as ambitious as the existing EU Regulations.
- 10 Three main issues were raised by the consultation responses:
- ‘pooling’ – how pooling will work in a UK-only context and how it will interact with the existing pools at EU level;
  - CO<sub>2</sub> targets – whether maintaining the EU fleet average mass would lead to weaker emissions regulation in the UK; and
  - market distortion – in the event of the UK leaving the EU without a deal, only vehicle registrations after EU Exit will be included in a UK regime, leading to a distorted snapshot of UK vehicle emissions.
- 11 Additionally, a number of areas were identified as requiring further clarification. These were:
- evidence to support the claim that the UK average vehicle mass is heavier than the EU average vehicle mass;
  - the scope of the draft UK statutory instrument: whether it applies to the location of manufacturers or the location of vehicles sold;
  - clarity on whether the data within the consultation document was based on 2017 data, while information on UK and EU vehicle registrations was based on 2016 data; and
  - further information on how maintaining the EU average mass within the target-setting formula would work in practice.

### *Government response to issues raised*

- 12 On **‘pooling’** – in the existing EU Regulations, manufacturers are able to form a pool (effectively a business group) with other manufacturers and, for the purposes of that regulation, be considered as one manufacturer for the setting of CO<sub>2</sub> targets, calculation of emission performance etc. There is no restriction

on the manufacturers that may join a pool, provided there is compliance with all relevant competition regulations.

- 13 In a UK-only regime, this would remain the case. Manufacturers will have the ability to pool their UK registrations together and, for the purposes of the UK regime, be considered as one manufacturer. Due to the fact that manufacturers may have different compliance/sales strategies in the UK than in the EU as a whole, it could be possible that different pools will be formed in the UK when compared to the existing EU-level pools. This will be a decision for manufacturers. Similarly, whether the existing EU-level pools will change after EU Exit will be a decision for manufacturers.
- 14 **CO<sub>2</sub> targets** – the UK Government has a long-standing commitment that vehicle emissions regulations after EU Exit will be at least as ambitious as existing arrangements. After EU Exit, the top level CO<sub>2</sub> targets of 130g/95g CO<sub>2</sub>/km for cars and 175g/147g CO<sub>2</sub>/km will remain by being copied into UK legislation. The formulae that translate those targets will retain the EU average mass immediately on EU Exit. As the UK average vehicle mass is above the EU average vehicle mass, the sum of targets in the UK will be slightly above the sum of targets in the EU. However, this maintains the level of effort for manufacturers as under the current regime, and ensures that regulations are as ambitious as under existing arrangements.
- 15 The average mass value is updated every three years. In the intervening period, if the average mass of vehicles increases above the average mass value listed in the EU legislation, then the sum of the targets will be higher than the top-level target. An update clause is therefore built in to the EU regulation in order to counteract this – the average mass value is updated every three years to account for changes to the mass of the vehicle fleet. This update clause is included in the UK-only regime, and will reflect the average mass of UK vehicles only at the first such update.
- 16 **Market distortion** – between 1 January 2019 and 29 March 2019 when the UK leaves the EU, vehicle registrations will be captured by the existing EU regulations. Post-EU Exit, registrations in the UK will be captured by the new UK-only regime. The EU regulation works by looking at all new registrations captured. Therefore in the first year of the new UK regime the vehicles captured will not be representative of the full 2019 vehicle fleet as the application of the UK regime will only apply to the vehicles registered after EU Exit.
- 17 March and September are peak months for new vehicle sales. From a derogations perspective, as registrations for the bulk of March will be captured by the EU Regulations, respondents suggested that registrations that are captured by the new UK regime could be under-representative of manufacturers' full year sales figures in the UK. The post exit UK regime can only take account of sales not captured under the EU regime prior to Exit in order to avoid double-counting. The Government therefore believes the most appropriate approach is that derogation thresholds will be based on full 2017 data and will be pro-rated in 2019 to account for the 'shortened' year.

### *Clarification on issues raised*

- 18 Regarding evidence to support the claim that the UK average vehicle mass is heavier than the EU average vehicle mass, the European Commission makes information on all car and van registrations publicly available each year. Data for 2017 is still provisional, however it is unlikely that the number of vehicle registrations will change, as it is the CO<sub>2</sub> figures that are intended to be finalised. Information on vehicle registrations in the EU can be found at <https://www.eea.europa.eu/data-and-maps/data/co2-cars-emission-14> for cars and <https://www.eea.europa.eu/data-and-maps/data/vans-10> for vans. It is these documents that the Government has used as evidence.
- 19 On the scope of the application of the EU regulation, it works on the basis of where the vehicle is registered, not where the manufacturer is located. Therefore, irrespective of where the manufacturer is based, if that manufacturer registers >1,000 vehicles in the UK in a calendar year, their vehicle registrations will be in scope of the UK regime.
- 20 A point was raised about referencing 2016 data rather than 2017 data in the background section detailing registration numbers in the UK and EU. We acknowledge that 2017 data should have been used.
- 21 Finally, there was a request for clarification of how the UK regime will work in practice. A worked example has therefore been produced in Annex 2 of this document.

## **Sales volumes and derogation thresholds**

- 22 In the main consultees agreed that the proposals would provide a business as usual approach and provide certainty to industry while ensuring that the UK regime is at least as ambitious as the existing EU regulations.
- 23 A number of issues were raised and clarification requested. These were:
  - a potential scenario where a manufacturer qualifies for a 'niche' volume derogation in the EU but not in the UK after EU Exit; and
  - a request for further information on how the new formula establishing individual derogation thresholds would work.

### *Government response to issues raised*

- 24 Regarding the **potential scenario whereby a manufacturer may qualify for a derogation in the EU but not in the UK after EU Exit**, it is possible that a manufacturer with >300,000 car registrations in the current regime may fall below 300,000 registrations. This would be due to UK registrations being removed from the scope of the EU regulation but, due to the UK regime being based on EU data in 2017, being classed as a major volume manufacturer in the UK. Such a scenario could arise as the EU thresholds are currently based on the registrations of all Member States, including the UK. Whether these thresholds are amended after the UK leaves the EU is a decision for the European Commission, Council and Parliament.

- 25 Regarding further information on the **formula to establish individual derogations**, the formula takes the percentage of a manufacturer's 2017 EU registrations that occurred in the UK, and applies that percentage to the existing thresholds to derive the UK thresholds.
- 26 For example: Manufacturer A registers 400,000 cars in the EU, 150,000 of which occur in the UK. As a percentage, this equates to 37.5%. Applying 37.5% to the existing EU thresholds provides a small-niche volume threshold of 3,750 and a niche-major volume threshold of 112,500. As the manufacturer registered 400,000 vehicles in the EU, they are above the 300,000 threshold and are classed as a major volume manufacturer. As the manufacturer registered 150,000 vehicles in the UK, they are above the individual threshold of 112,500 and therefore continue to be classed as a major manufacturer.
- 27 At smaller volumes, Manufacturer B registers 150,000 cars in the EU, 20,000 of which occur in the UK. As a percentage, this equates to 13.3%. Applying 13.3% to the existing EU thresholds provides a small-niche volume threshold of 1,333 and a niche-major volume threshold of 40,000. As the manufacturer registered 150,000 vehicles in the EU, they are above the 10,000 threshold and below the 300,000 threshold, so are classed as a niche volume manufacturer. As the manufacturer registered 20,000 vehicles in the UK, they are above the niche threshold of 1,333 and below the individual threshold of 40,000 and therefore continue to be classed as a niche manufacturer.

## Eco-Innovations

- 28 In the main consultees agreed that the proposals would provide a business as usual approach and provide certainty to industry while ensuring that the UK regime is at least as ambitious as the existing EU regulations.
- 29 The only issue raised was whether a single point of approval for eco-innovations could be maintained to avoid any resulting unnecessary duplication for vehicle manufacturers.

### *Government response*

- 30 If the UK were to leave the EU without a deal the obligation to approve any **future eco-innovations** in the UK will fall to the UK Government. The proposed approach stated that all new eco-innovations will need to be approved in the UK after EU Exit, and that any approval by the European Commission may be used to assist the application for UK approval.
- 31 In order to minimise any additional burden, the Government will clarify that the UK approval regime will use an equivalent application process as set out in EU regulations 725/2011 & 427/2014, thereby ensuring that the application processes for an EU eco-innovation approval and a UK eco-innovation approval are as similar as possible.
- 32 Additionally, any testing that has been performed by an 'independent and certified body' in line with the current EU regulation will be accepted during the UK eco-innovation approval process. This will ensure that manufacturers/parts suppliers will not need to 'double test' their eco-innovations in the UK and the EU – any testing performed by an EU Technical Service may be used in a UK eco-innovation application.

## Minor and Technical Changes

- 33 In the main, consultees agreed that the proposals would provide a business as usual approach and provide certainty to industry while ensuring that the UK regime is at least as ambitious as the existing EU regulations.
- 34 The only issue raised was with regard to the potential effect of changes in the exchange rate on the level of the excess emissions premium if manufacturers fail to deliver their targets.
- 35 Further clarification was also requested on the following points:
- the removal of complementary measures equating to 10g CO<sub>2</sub>/km from the text of the legislation and what this means from a policy context;
  - how the location of the vehicle registration will impact on whether the vehicle is captured by the UK regulation; and
  - how the M<sub>0</sub> value will be amended.

### *Government response*

- 36 With regard to the **level of the excess emissions premium**, this has been converted from a euro amount to a pound sterling amount following advice from the Department for Exiting the European Union. This recommended using an average exchange rate over a period of six months - one year, and rounding the result to two significant figures.
- 37 Consequently, the €95 amount was converted using the 2017 average exchange rate of £1:€1.14615, equating to £82.89, or £83 after rounding to two significant figures. This figure is included in the draft statutory instrument.
- 38 On the **removal of complementary measures** from the text of the legislation, this is a stylistic point and is not reflective of a policy change. The term has been removed as it is one that has been used previously at EU level and may therefore cause confusion. The policy measures linked to this at a European level, such as the use of biofuels, will continue and are not in any way affected by the removal of this term from the draft UK statutory instrument.
- 39 Regarding the impact of **location of the vehicle registration**, only new vehicles that have been registered within the UK will be taken into account through the UK regime. An exemption exists in the European regulations whereby if a vehicle is imported into the EU that has been newly registered outside of the EU within the last 3 months, then this will be disregarded. This clause will be brought into the UK legislation by the draft statutory instrument. Therefore, if a vehicle is imported into the UK that has been newly registered outside of the UK within the last 3 months, this initial registration will be disregarded and the vehicle will be deemed as being in scope of the UK regime as a new vehicle.
- 40 On the **amendment to the M<sub>0</sub> value**, the same approach to amendment will be used as in the EU, notwithstanding the fact that only UK registrations will be able to be taken into account when amending the value. When amending the M<sub>0</sub>, it will reflect the average weight of all newly registered cars or vans in the UK over the preceding three years, and, as is the case now, the M<sub>0</sub> will be

announced a year in advance. This M<sub>0</sub> amendment would allow the UK regime to keep pace with changes to the average weight of the UK vehicle market, thereby ensuring that should the average weight of UK vehicles increase, the CO<sub>2</sub> targets do not continue to increase.

### Organisations responding to the consultation

- 1 European Small Volume Car Alliance
- 2 Keith Taylor MEP
- 3 Environmental Defence Fund
- 4 Scottish Power
- 5 PSA Group
- 6 Freight Trade Association
- 7 Society of Motor Manufacturers and Traders

### Example of how a major volume car manufacturer might be affected under a UK regime

Based on:

- UK registrations = 130,000
- EU registrations (including UK) = 400,000
- EU27 registration = 270,000
- Average weight of manufacturer UK fleet = 1409kg
- Average of manufacturer EU fleet (including UK) = 1379.88kg
- Average weight of EU 27 fleet = 1365.86kg

The formula for deriving CO<sub>2</sub> targets in 2019 is:

- Specific emissions of CO<sub>2</sub> =  $130 + a \times (M - M_0)$

Where:

- M = mass of the vehicle in kilograms (kg)
- M<sub>0</sub> = 1 379,88
- a = 0.0457

If UK vehicle registrations were to continue to be captured by the EU regulation, the target for this manufacturer would therefore be:

$$130 + 0.0457(1379.88-1379.88) = 130\text{g CO}_2/\text{km}$$

Following the UK's withdrawal from the EU, this formula will apply separately to UK vehicle registrations and EU27 registrations. Therefore, assuming no changes to the EU regulation immediately after the UK leaves the EU:

In the EU27:

$$130 + 0.0457(1365.86-1379.88) = 129.36\text{g CO}_2/\text{km}$$

In the UK:

$$130 + 0.0457 (1409-1379.88) = 131.33\text{g CO}_2/\text{km}$$