

Response to:

**Targeted Consultation on Proposed
Amendments to the Biofuel
(Labelling) Regulations 2004**

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1. Foreword

Directive 2009/28/EC on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC¹, commonly known as the Renewable Energy Directive (RED), was adopted on 23 April 2009. The RED requires Member States to ensure that 10% of the energy used in transport is from renewable sources in 2020, as well as requiring the introduction of mandatory sustainability criteria for biofuels. Member States were required to transpose the RED by 5 December 2010.

The RED introduced biofuel sustainability criteria. These criteria address issues such as the minimum GHG savings delivered by biofuels and ensure that biofuels are not produced from areas of high carbon stock or high biodiversity.

Between 10 March and 2 June 2011 we ran a consultation on proposals to implement the RED. The majority of the transport elements of the RED were implemented through amendment of the UK Renewable Transport Fuel Obligation (RTFO) on 15 December 2011. This amendment introduced the RED sustainability criteria and also double counting provisions for biofuels made from wastes, residues, non-food cellulosic material and ligno-cellulosic material.

The focus of this document is the RED biofuel labelling requirement. Article 21(1) of the RED requires Member States to ensure that where transport fuels contain more than 10% biofuel by volume this must be indicated at the sales point.

This document sets out a summary of the responses received to the Department for Transport's "Targeted Consultation on Proposed Amendments to the Biofuel (Labelling) Regulations 2004". The consultation period began on 12 September and ran until 10 October 2011. The consultation was published on the Department for Transport website:

<http://www.dft.gov.uk/consultations/dft-2011-28>

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:140:0016:0062:en:PDF>

We would like to thank all those who took the time to respond to this consultation.

More information on the RED consultation and Government Response can also be found on the Department for Transport website:

<http://www.dft.gov.uk/consultations/dft-2011-05>

2. Executive Summary

2.1. Summary of respondents

A total of 19 responses were received from a cross-section of the industry and individuals and organisations who are interested in the proposed legislation. Table 1 provides a summary of those that responded to the consultation and a full list is provided at section 6.

Table 2. Summary of responses from organisations and companies

Category of interest	Number of responses
Biofuel industry	3
Oil industry	4
Vehicle manufacturers	1
Trade Associations	8
Local government	1
Members of the public	2
Total	19

2.2. Summary of final policy

We proposed to implement article 21 of the RED by amending the Biofuel (Labelling) Regulations 2004 (as amended) to introduce a labelling requirement for biofuels containing over 10% biofuel.

Consultation responses have raised genuine concerns regarding how useful the new biofuel label would be to consumers. In addition, similar labelling is already taking place as a result of existing domestic legislation and industry self-regulation.

After careful consideration and taking into account comments received during consultation, we have decided we do not need to

legislate further to give full effect to article 21(1) of the RED. As such we will not introduce the draft regulations proposed in our consultation.

We expect that the development of appropriate labelling standards will be part of industry's work to improve/develop new fuel standards. Government will write to the European Commission and BSI to encourage CEN to develop a labelling standard that would ensure uniform labelling across Europe.

We will keep the issue of biofuel labelling under review and reserve the right to intervene if the desired level of consumer protection is not achieved.

2.3. Contact details

If you have any questions regarding this response, please contact:

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3. Introduction

3.1. The Renewable Energy Directive

The Renewable Energy Directive (RED) requires the UK to ensure that 15% of the energy used in electricity, transport, heating and cooling is from renewable sources in 2020. The RED also requires all Member States to ensure that the share of energy from renewable sources in road and rail transport using petrol, diesel and biofuels is at least 10% in 2020.

Article 21(1) of the RED requires that where transport fuels (for all modes of transport) contain more than 10% biofuel by volume, this should be indicated at sales points.

3.2. Proposal

In our consultation we explained that implementation of article 21(1) of the RED would help inform consumers whose vehicles may not be suited for higher levels of biofuel. Furthermore, it will allow consumers with compatible vehicles to identify fuels with high biofuel content more easily.

In order to implement article 21(1) of the RED, we proposed to amend the Biofuel (Labelling) Regulations 2004 (as amended)² to introduce a new labelling requirement, in addition to those already required by these regulations. In short it was proposed that the amended Regulations would require that for any transport fuel containing more than 10% biofuel the words “This fuel contains more than 10% biofuel” must be either displayed on any dispensing apparatus from which such fuel is sold or offered for sale, or prominently displayed on any delivery note relating to such fuel where the fuel is delivered in bulk. We proposed that this requirement should apply both to blends of mineral fuel and biofuel and to pure biofuel.

Section 4 of this document sets out a summary of the responses received to the questions posed in our consultation and the Government’s response.

² S.I. 2004/3349 as amended by SIs 2005/3355 and 2009/3277

4. Responses to each question in the consultation

4.1. Consultation questions and summaries of responses

4.1.1. Question 1: Do you agree that the labelling requirement should extend to pure biofuel? Will this impose additional cost on your business?

Summary of responses

Agree:	12
Disagree:	4
No answer:	3 (one respondent provided comments)

Main messages from respondents

The majority of respondents agreed that the labelling requirement should be extended to pure biofuel.

Four respondents supported the extension of the labelling requirement to pure biofuels, suggesting that the additional information is important.

Four respondents thought the labelling should be extended such that it applied to biofuel blends (i.e. mineral fuel blended with biofuel), except when the biofuel content is hydrotreated vegetable oil (HVO) because its chemical properties make it indistinguishable from that of fossil fuel — i.e. HVO can be considered as a “drop-in fuel”.

Four respondents disagreed that the requirement should be extended to pure biofuel. One of these added that if pure biofuel were sold on a forecourt it would necessarily have to be identified as pure biofuel. Five commented that the extension is unnecessary as pure biofuel is not currently sold directly to consumers, but is rather only sold by specialists to specialist consumers. A fuel supplier commented that, were pure biofuel to

be sold in the future, the additional cost of extending the requirement would be factored in into the fuel price.

Individual responses/detailed points

- A member of the public stated that in addition to extending labelling to pure biofuel, warnings should be provided regarding the possible damage biofuel could cause to the vehicle fuel system.
- A trade association representing fuel retailers stated that more comprehensive information should be given to consumers to avoid vehicle damage due to the use of incompatible fuel, and that retailers are at risk of claims by vehicle owners.

4.1.2. Question 2: How many companies do you estimate are supplying fuels containing more than 10% biofuel? How is this supplied — at filling stations or in bulk?

Summary of responses

Commented: 12
No comments provided: 7

Main messages from respondents

All those that commented on the number of companies supplying fuels containing more than 10% biofuel estimated that it was a small number. One respondent (a fuel retail association) estimated that around 50 retail sites were supplying fuels containing more than 10% biofuel.

Most respondents thought that fuels containing more than 10% biofuel would not be supplied at filling stations but would be supplied to captive fleets (i.e. fleets of vehicles that operate from a depot and return to that depot for refuelling) in bulk.

Two commented that a number of suppliers may be supplying blends containing more than 10% biofuel when including the level of HVO but that, as HVO is indistinguishable from the fossil fuel diesel it is blended to, there is no need for the labelling to apply to these fuels.

Individual responses/detailed points

- A producer of advanced biofuel commented that the exact physical amount of “drop-in” fuel blended into a fossil fuel may not always be known per consignment due to the application of the mass balance approach at oil refineries.
- A fuel supplier commented that some high-blend biofuel is supplied for further blending with fossil fuel to yield blends that meet BS EN standards³.

4.1.3. Question 3: How many companies do you estimate are supplying fuels which are 100% biofuel (e.g. B100 or E100)? How is this supplied — at filling stations or in bulk?

Summary of responses

Commented:	10
No comments provided:	9

Main messages from respondents

Those who commented thought that only a few companies are supplying pure biofuel (100% biofuel). No respondents knew of any 100% biofuel being sold at filling stations; most commented that pure biofuel is typically marketed to specialist fuel suppliers and users and, as such, pure biofuel is more likely to be sold in bulk.

Individual responses/detailed points

- A biofuel producer noted that it is not usually economically feasible to sell 100% “drop-in” fuels.

³ British Standard European Norm (BS EN) standards are European technical standards as adopted in the UK. BS EN standards often supersede pre-existing national technical standards known as BS (British Standards).

4.1.4. Question 4: How do you see future demand/supply for fuels containing more than 10% biofuel developing?

Summary of responses

Commented:	17
No comments provided:	2

Main messages from respondents

Eight respondents noted that the supply and demand for blends containing greater than 10% biofuel is driven in response to Government and legislative targets. In particular, given the RED requires 10% of fuel in road and rail transport to be from renewable sources by 2020, some respondents emphasised that this implies setting higher targets than the current 5% set by the RTFO.

Five respondents thought demand for high biofuel blends will be limited due to technology constraints not allowing the use of higher blends (i.e. higher than 7% FAME and 5% ethanol). This is reflected by the lack of vehicle warranties that permit the use of fuels other than those meeting industry standards (EN 590 and EN 228). Respondents also mentioned the lack of incentives for vehicle owners to upgrade their vehicles to newer models (such as flexfuel vehicles) that are compatible with higher blends.

A fuel supplier and a producer of advanced biofuels stated that an important role in meeting future demand for biofuel will be played by advanced (and drop-in) fuels that have fewer compatibility issues and are already allowed at levels greater than 10% under the existing industry fuel standards for diesel and petrol. These respondents (and others in response to other questions) stressed the need for biofuel labelling requirements not to deter the development of advanced/drop-in biofuels that have no (or fewer) compatibility issues.

Individual responses/detailed points

- A local government body noted that, apart from the limitations vehicle manufacturers face in adapting engines to accept higher levels of biofuel, another limiting factor in the

future use of higher blends is that older filling stations may not be able to support high biofuel content because of the risk of deterioration of storage tanks and pipelines.

- A member of the public stated that the environmental case in favour of biofuels is unproven, that biofuels damage engines and that the public are not aware of these issues. The individual suggested that an informative media debate on these issues needs to take place.
- A vehicle manufacturer commented that higher levels of ethanol in petrol can incentivise the development of more efficient engines.
- A trade association stated that apart from government policy, the biofuel market is affected by the price of biofuel feedstock relative to fossil fuels, consumer appetite and the technical constraints of infrastructure and vehicles.

4.1.5. Question 5: Will the wording be easily understood by all groups of consumers? If not, do you have any evidence on what its impact will be and possible mitigation measures?

Summary of responses

Yes:	8
No:	9
No answer:	2

Main messages from respondents

Opinion on the proposed labelling was divided. Eight respondents thought that the wording would not cause specific problems for any group of consumers and would be understood. However, nine respondents raised concerns that the wording was not informative enough for consumers and that it would not provide sufficient information to make an informed decision on the fuel being purchased.

A vehicle manufacturer, a biofuel supplier, a trade association and a fuel supplier thought the wording would not give enough

information to consumers on whether the fuel was suitable for their vehicle or not.

A fuel supplier and a trade association emphasised the importance of a large scale communication campaign to inform consumers of both the benefits and risks of biofuel use. The supplier recommended that introduction of the proposed labelling requirements is delayed until 2012 and subject to a twelve-week consultation. A member of the public thought that the Government had done too little in this area in the past. A trade association added that the information necessary to satisfy a consumer that the fuel is (or is not) suitable for their vehicle must be provided at the point of sale.

Seven respondents (including biofuel producers, oil suppliers and trade associations) warned that the wording of the label could cause confusion or uncertainty to the consumer as it does not provide the actual level of biofuel content to compare against limits stated in a vehicle warranty. A biofuel producer recommended that Government should require the fuel to be labelled with approved fuel standards instead as these have maximum biofuel limits and provide the fuel compatibility information vehicle owners need.

Individual responses/detailed points

- A trade association raised concerns regarding the risk that owners of historic vehicles may misinterpret the proposed label; the association believed that the proposed labelling could lead some people to believe that fuel containing up to 10% ethanol carries less risk of being unsuitable for use in older vehicles than fuel containing between 5 to 10% ethanol. Therefore, the association suggested that additional labels be introduced distinguishing between the different possible levels of ethanol being supplied: less than 5%; between 5% to 10%; and more than 10%.
- A biofuel producer emphasised the importance of excluding “drop-in” biofuels from the requirement as they do not cause any damage to vehicles.
- A trade association thought that biofuel labelling has been sufficiently clear in the past because it has mainly been used

by those who know the details of the industry. However, they thought that problems would arise if biofuel became cheaper and therefore more attractive to consumers who were not aware of the associated risks.

- A trade association representing the interests of fuel retailers pointed out that the wording on any label should correspond to the wording used by vehicle manufacturers in their warranties.
- A member of the public stated that it is important that petrol containing ethanol up to 10% is labelled as such, as this will enable owners of historic vehicles to choose alternative fuels, suitable for their vehicles.

4.1.6. Question 6: Are there any forms of “sales point” for transport fuels not covered by the Regulations?

Summary of responses

Yes: 0
No: 12
No answer: 7 (one respondent provided comments).

Main messages from respondents

Respondents believe that all forms of sales point were considered to be covered by the draft Regulations.

Individual responses/detailed points

- A fuel supplier thought that the definition of sales point should be widened so that it includes the whole fuel station itself, rather than the individual fuel dispenser/pump. The supplier believed this action would give fuel retailers a wider opportunity to communicate guidance on the biofuel content of fuel to consumers.
- A trade association sought confirmation that bulk sales would include fuel supplied in drums.
- A local government body sought confirmation that the definition covered filling stations at airports and marinas.

- A trade association representing the interests of fuel retailers thought that all sales points were covered but that a guidance leaflet should be available to consumers at the sales point to increase awareness of different biofuel blends.

4.1.7. Question 7: The existing requirement for the wording “Not suitable for all vehicles: consult vehicle manufacturer before use” to be displayed on dispensers at filling stations where more than 5% bioethanol in petrol or 7% biodiesel is sold, will remain. Do you think this wording should also be required on dispensers not located at filling stations and/or on delivery notes (i.e. in addition to the advice required where biofuels exceed 10% by volume)?

Summary of responses

Agree: 9
 Disagree: 5
 No answer: 5 (one respondent provided comments)

Main messages from respondents

The majority of respondents agreed with the proposed extension of the labelling requirement for dispensers not located at filling stations and on delivery notes. Two trade associations, two fuel suppliers and a biofuels producer thought that consistent wording should be used at all dispensers to avoid confusion.

Five respondents, including two biofuel producers, a fuel supplier and two trade associations thought that extending the current requirement to dispensers not located at filling stations would be unnecessary and would be an additional legislative burden. Some respondents stated that the lack of labelling on dispensers not located at filling stations or on delivery notes for bulk delivery of fuel had not led to any misfuelling.

Individual responses/detailed points

- A member of the public thought that an additional “hazard” warning should be required that included detail on which

materials could be damaged by the biofuel content of the fuel.

- A fuel supplier suggested that the wording should mention the fuel specification and give warning only if the biofuel content is above the maximum permitted by that fuel standard (e.g. EN 590 or EN 228). The same supplier thought that this warning should not apply to “drop-in” biofuel blends.

4.1.8. Question 8: Will the requirements as to the positioning and prominence of the text disadvantage any groups of consumers? If so, do you have any evidence on what its impact will be?

Summary of responses

Yes: 2
No: 11
No answer: 6 (3 respondents provided comments)

Main messages from respondents

The majority of respondents did not think that the positioning and prominence of the text will disadvantage any groups of consumers.

A fuel supplier and a trade association thought the requirement was flexible enough for suppliers to comply with.

Individual responses/detailed points

- A producer of advanced biofuels thought that all consumer groups would be disadvantaged by the proposed labelling because of the uncertainty around the actual biofuel content.
- A fuel supplier thought that a longer consultation period would yield more evidence on the impact of these proposals.

4.1.9. Question 9: For suppliers of fuels containing more than 10% biofuel: What changes will be necessary to your company's processes (e.g. to the wording on delivery notes and/or dispensers) as a result of the Regulations? We have tried to estimate the costs of these changes in the Impact Assessment do you think our estimates are correct?

Summary of responses

Responded: 8
No answer: 11

Main messages from respondents

A fuel supplier commented that the impact assessment only identified the cost of additional labelling and administration associated with delivery notes. This supplier thought that our approach did not take into account the potentially significant costs that could result from the introduction of higher biofuel blends. The supplier referred to consumer reaction in Germany when E10 (petrol with ethanol content of up to 10%) was introduced — low uptake of the new fuel was observed. The supplier suggested that because consumers were not given sufficient information about the new fuel, they refused to buy it. As a consequence fuel suppliers were unable to sell significant quantities of biofuel produced and this caused shortages in the supply of other fuels. The supplier commented that the risk of low uptake of higher biofuel blends was not captured by the impact assessment. The supplier further commented that this risk could be mitigated by an appropriate communication strategy to ensure consumer awareness as new blends are introduced to market. The same supplier reiterated the comment that only fuels that do not meet the EN590 standard for diesel or the EN228 standard for petrol owing to the levels of FAME or bioethanol being too great should require “warning” labels at sales points.

A biofuel producer stated that changes would not be necessary if “drop-in” fuels were excluded from the regulation. However, if these fuels were included the producer suggested that industry would need to consider changes to the mass balance systems

used in biorefineries in order to determine the biofuel content of biofuel blends that contain HVO.

A fuel supplier commented that, whatever the costs of labelling are, they will likely be similar for all suppliers and so a level playing field would be retained.

A fuel supplier stated that the impact assessment underestimated the costs associated to the proposed change and listed a series of additional costs that it considered should be taken into account. These include the cost of changing the wording not only on delivery notes, but also on the firm's IT system, as well as the cost of replacing old labels and designing new ones.

Two biofuel producers thought that current use of biofuel blends greater than 10% is a commercial matter for specific fleets and therefore it is inappropriate to use any information on costs obtained through the answers to this question to estimate costs for the future supply of biofuel blends to the wider public.

Individual responses/detailed points

- A fuel supplier stated that the fuel supplied to retailers conforms to BS EN standards and is therefore labelled accordingly. Those fuels that do not conform to BS EN standards are generally subject to a specific contract or arrangement and this implies that all the information regarding the fuel content, including biofuel, is indicated in the contract and there is no need for additional labelling.
- A trade association representing fuel retailers stated that the impact assessment does not take into account individual purchases of labels by single site operators instead of bulk ordering and that to implement new requirements new labels will have to be printed to replace existing ones. This comment suggests that the costs of the proposed changes as currently calculated in the impact assessment are underestimated.

4.1.10. Question 10: Do you think that the assumptions and the cost and benefit estimates in the Impact Assessment appear realistic?

Summary of responses

Responded: 8
No answer: 11

Main messages from respondents

Most respondents had no comment on the cost and benefits.

Two fuel suppliers and a trade association pointed out that some conclusions in a report by Ricardo referenced in the Impact Assessment⁴ (page 6) on the impact of the use of HVO in transport fuel have since been revised.

A producer of advanced biofuel thought the cost and benefit analysis was only valid on the basis that HVO fuels are not included in the regulation.

A trade association thought the benefits seemed realistic though the costs of labelling were too low.

4.1.11. Question 11: Do you think the assessment of the effect of the Regulations on competition and small businesses looks reasonable?

Summary of responses

Responded: 11
No answer: 8

⁴ Ricardo “Questionnaire for the Department for Transport investigating the compatibility of vehicles operating on biofuels.”
<http://webarchive.nationalarchives.gov.uk/20110504061551/http://www.dft.gov.uk/pgr/roads/environment/research/biofuelvehiclecompatibility/>

Main messages from respondents

One biofuel producer and a trade association commented that as the lack of labelling has not, to their knowledge, led to any misfuelling, this regulation is an unnecessary burden.

A biofuel producer thought it would be preferable to have consistent labels across all blends asking the consumer to check the fuel specification rather than generic warning labels that could discourage fuel retailers from selling those fuels that require labelling. The supplier considered that fuel retailers may consider that consumers would be less likely to buy fuel labelling with warnings and thus choose to only supply those fuels that do not require labelling. They pointed out that the RED requirements could be met by simply labelling all pumps with 'biofuel in fuel may exceed 10%, please check that the fuel specification meets the requirements of your vehicle'.

A fuel supplier provided some useful comments regarding the impact of the proposed regulations on small businesses. The supplier suggested that in the "business to customer" market (i.e. those businesses that sell fuel to consumers at forecourts) the conduct/behaviour of all players will be the same in order that the customer experience of purchasing fuel at forecourts is the same – as such the supplier expected that industry behaviour in response to the proposed regulations would be the same regardless of the size of the business. The same supplier further commented on the "business to business" market (i.e. those businesses that sell fuel in bulk under commercial agreements, for example businesses that supply fuel to captive fleets). The supplier suggested that the behaviour of companies in the "business to business" market will be driven by commercial agreements that set out the conditions of supply; the supplier suggested that in these circumstances supplier behaviour will be driven by the fuel consumer and governed by the agreed supply contract – i.e. the contract would set out agreed terms such as what documentation would accompany the fuel (bills of lading, quality certificates, etc) and as such labelling regarding the biofuel content could be considered unimportant/unnecessary.

In terms of competition, the same fuel supplier stated that they perceived enforcing the proposed regulations as being difficult and

that this in turn could lead to a weak enforcement regime which could disadvantage those suppliers who do comply compared to those who choose not to.

The same fuel supplier also provided comments on the impact of the proposed regulations on competition between UK and EU suppliers. The supplier suggested that the proposed regulations could disadvantage UK suppliers if “drop-in” biofuels were included in the requirement, as suppliers may not be able to fully utilise advanced biofuel products such as HVO, whereas these may be accessible to similar businesses in the EU that operate in Member States that have not extended the labelling requirement to “drop-in” biofuels.

Individual responses/detailed points

- A trade association representing fuel retailers thought that, in the case of bioethanol, a minimum percentage of ethanol should be stated on delivery notes to retailers to avoid the risk of phase separation occurring (due to low percentages of ethanol being delivered) which has caused costs to retailers in the past.

4.1.12. Question 12: Will our proposals lead to differential impacts on people with protected characteristics⁵? Do you have any information or evidence to provide on this?

Summary of responses

Yes:	0
No:	10
No answer:	9

Main messages from respondents

No respondents thought the proposals would lead to differential impacts on people with protected characteristics. All of those who commented did not have any additional information on the issue,

⁵ Protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

although a fuel supplier thought that a longer period of consultation could yield further evidence.

4.1.13. Question 13: Do you foresee any unintended consequences of adopting this element of the Directive?

Summary of responses

Yes:	9
No:	5
No answer:	5 (2 respondents provided comments)

Main messages from respondents

Several respondents raised concerns over the possible unintended consequences of implementing the labelling requirement. In particular, two fuel suppliers, a producer of biofuels and a trade association state that advanced “drop-in” biofuels such as HVO (Hydrogenated Vegetable Oil) have chemical properties making them virtually indistinguishable from fossil fuels and as such can be blended into diesel as ‘drop-in’ without the need to modify the engine.

Therefore, it was suggested that HVO or other advanced biofuels that are also considered “drop-in” fuels should be excluded from the labelling requirement as this could be misleading, generating unnecessary concerns among consumers. Respondents suggested that the label: “This fuel contains more than 10% biofuel. Not suitable for all vehicles; consult vehicle manufacturers before use” should be limited to the volume of FAME or bioethanol in the blend, as fuel quality issues are limited to such blends.

A trade association, a fuel supplier and a biofuel producer stated that an unintended consequence of the labelling requirement together with the lack of clear communications could lead to negative reactions by consumers who would be deterred from using biofuel blends and this would make it more difficult to achieve Government’s carbon reduction targets by 2020.

Individual responses/detailed points

- A local government body raised concerns over the introduction of higher bioethanol blends, as this might have an adverse effect on the infrastructure of older filling stations.

4.1.14. Question 14: Do you have any other comments on the Regulations?

Summary of responses

Additional comments: 9

No other comments: 10

Main messages from respondents

Two fuel suppliers and a trade association emphasised that specifications for fuel standards that would allow higher biofuel content are still being reviewed, and agreement is not expected until late 2012. Moreover, work by CEN (European Committee for standardization) to develop a fuel standard for diesel containing more than 7% biodiesel is still at preliminary stages. For such reasons these respondents proposed that implementation of the labelling requirement should be postponed and a further longer consultation carried out at a later date to determine a more appropriate definition of the labelling wording. In addition, it was suggested that any pump labelling changes related to the supply of biofuels should be accompanied by a public information campaign to reduce potential confusion among consumers.

Individual responses/detailed points

- A fuel supplier suggested that for fuels containing “drop-in” biofuel and meeting EN590 for diesel and EN228 for petrol, there is no need for a biofuel warning label.
- A producer of advanced biofuels reiterated concerns that the labelling requirement should only refer to FAME biodiesel and bioethanol, and should exclude all “drop-in” biofuels (such as HVO). It was suggested that drop-in biofuels could be defined as “biofuels that have not been set quality related blending limits in the European CEN industry standards for petrol or for diesel fuel”.

- Another producer of advanced biofuels suggested that in order to avoid confusion for consumers the label should contain reference to the exact fuel specification in terms of approved standards. The producer also suggested that if the labelling requirement were to apply to all biofuels, including advanced “drop-in” fuels, it should have a generic reference to biofuel content: “This fuel may contain >10 % biofuel. Please check your vehicle handbook to confirm that this fuel specification is compatible with your vehicle”. The producer thought this approach would facilitate operations for fuel retailers because the supplier may not know the exact content of advanced “drop-in” biofuel contained in the fuel.
- A local government body suggested that in order to prevent ambiguity labels should be defined in terms of size and position.
- A trade association suggested that retailers have suffered a lack of accurate information being passed on from wholesalers and that it is important to support the provision of better information that will help end users make an informed choice; in turn, this behaviour would then reduce the risk of compensation claims.

4.1.15. Question 15: Are there any other topics on which you would wish to see further guidance?

Summary of responses

Yes:	7
No:	8
No answer:	4

Main messages from respondents

Four respondents, including a biofuel producer, a fuel supplier, and two trade associations argued that advanced biofuels should be excluded from the scope of the regulation. They stated that advanced drop-in biofuels (such as HVO) are used at oil refineries to improve fossil fuel quality, have no quality issues and are not limited in industry standard EN 590 for diesel fuel; they are normally used in blends of up to 30%. Therefore, it was suggested that, as the aim of labels is to help ensure fuel-vehicle compatibility

for the customer, labelling of biofuels should not be required if there are no compatibility issues.

In addition, a biofuel supplier suggested that guidance may be needed on a suitable labelling procedure in case drop-in biofuels are used and therefore the precise percentage of biofuel present is unknown.

Two fuel suppliers reiterated their proposal to postpone the implementation of the labelling requirement and to hold a longer consultation to allow sufficient time to identify a more appropriate definition of the labelling wording.

Individual responses/detailed points

- A trade association representing fuel retailers suggested that it would be very helpful if a brochure is distributed at points of sale aimed at motorists, for them to understand the risks and options available.

4.1.16. Question 16: As part of the Government's desire to ensure legislation is accessible and easy to understand the Biofuels (Labelling) Regulations 2004, its past amending Regulations (SI 2005/3355 and 2009/3277) and the proposed draft Regulations (attached at Annex D) could be consolidated into one piece of legislation. Do you support this proposal? If not, could you say why?

Summary of responses

Yes:	15
No:	0
No answer:	4

Main messages from respondents

No respondents were opposed to the consolidation of the various regulations into one piece of legislation.

One fuel supplier and a trade association suggested that consolidation is extended to include the “Motor Fuel (Composition and Content) Regulations.

Individual responses/detailed points

A fuel supplier reiterated their call for a longer, 12-week consultation.

5. Government Response

We are grateful to all those who responded to the consultation and for the useful comments we have received. Following the end of the consultation period, we have undertaken additional research and analysis to help us consider fully the implications of the proposed change.

Our proposed policy, as presented in the consultation document, was to implement the labelling requirements of the Renewable Energy Directive (RED) by introducing domestic labelling regulations for fuels having a biofuel content over 10%. Following the consultation process, it has become apparent that there are some significant deficiencies with that approach. In response to the consultation we have decided to change our approach regarding implementation of the labelling requirements of the RED.

Consultation respondents raised concerns regarding how useful the proposed new biofuel label would be to consumers; in particular most respondents thought that the proposed wording would not give enough information to allow motorists to ascertain whether the fuel is suitable for their vehicle. It has been suggested that a label stating the maximum biofuel content (e.g. E10 for petrol containing up to 10% bioethanol, B30 for diesel containing up to 30% biodiesel, etc.) would be more useful and would better reflect the wording used in information given to vehicle owners by some manufacturers and in vehicle warranties.

Respondents also raised concerns over the confusion that the new label could generate if it were to be applied to drop-in fuels (e.g. HVO) that have chemical properties very similar to fossil fuels and which can be used in vehicles without modification to engines, materials and fuelling infrastructure.

These drop-in fuels can already be used in road fuels at levels greater than 10%. For example, HVO may be used at levels greater than 10% as its content is not explicitly limited by the current industry standard for diesel (BS EN 590). The proposed labelling could cause unnecessary alarm for consumers and result in unjustified low demand for biofuel and consequent loss for the biofuel market.

Some respondents also raised the issue of advanced biofuels; some of these biofuels may have fewer compatibility issues with existing engines/infrastructure than currently available first generation biofuels. However, the evidence base regarding the compatibility of advanced biofuels is not complete and we cannot be certain that all advanced biofuels will have fewer compatibility issues.

Our key aim in implementing the labelling requirement of the RED is to ensure consumer protection. Therefore, following consultation we carried out further investigations to explore the available evidence on the compatibility issues of currently used biofuels and how these differ from new advanced biofuels being produced/developed, including drop-in fuels. We also gathered further information from a range of stakeholders including vehicle manufacturers, biofuel producers and oil suppliers. Although there has not been extensive research and testing of the compatibility of new biofuel products, there is wide consensus on the properties of drop-in fuels and, therefore, on the need to exclude these from any labelling which is meant to warn consumers of compatibility issues associated with use of transport fuel blended with biofuel.

The vast majority of fuel suppliers follow industry standards on composition and content of transport fuels when supplying and retailing fuel. These standards include recommendations to mark pumps with the type of fuel being sold. The designation (i.e. the name of the standard) of the fuel must be stated, at specific sizes, on the dispensing pump or container of the fuel. We have been assured that suppliers would only supply fuels meeting industry standard for quality assurance reasons and because suppliers often share equipment which could be adversely affected if standards were not adhered to. In addition, there are no current industry standards for biofuel blends containing more than 5% ethanol or 7% FAME (although we understand discussions are underway to develop a new industry standard for petrol containing up to 10% ethanol).

Government understands the requirements of article 21(1) of the RED (the biofuel labelling requirements) to be aimed at providing protection for consumers — i.e. the need to provide consumers with information so that they do not missfuel their vehicles. Taking into account the current labelling requirements (as set out in the Biofuel (Labelling) Regulations (2004), as amended), and the self-

imposed industry standards we believe that the protective requirements of article 21(1) of the RED are already being met.

After careful consideration of the policy options and taking into account comments received during consultation, we have decided we do not need to legislate further to give effect to article 21(1) of the RED.

We are aware that new higher blends of biofuel are being developed and we know that industry is concurrently working on improving fuel standards. Government believes that industry should and will ensure that these new/revised standards include provisions for suitable labelling to ensure that consumers receive sufficient information to enable them to make informed decisions about the fuel they purchase. We expect that the development of appropriate labelling standards will form a crucial part of industry's work to improve/develop new fuel standards. Government will write to the European Commission and BSI to further encourage CEN to develop a labelling standard which will ensure uniform labelling across Europe.

As emerged from the consultation, there is a real risk of confusing and misinforming consumers, therefore it is important that we continue to work with industry (fuel suppliers, biofuel producers, vehicle manufacturers) on this issue and we recognise we all have a role to play in communicating changes in fuel standards and labelling to consumers.

We will keep the issue of biofuel labelling under review and reserve the right to intervene if it transpires that the combination of existing biofuel labelling legislation and improved industry fuel standards do not provide the desired level of consumer protection.

6. List of organisations that responded

BP plc

British Sugar plc

Butamax Advanced Biofuels LLC

Downstream Fuel Association

Federation of British Historic Vehicle Clubs Ltd

Freight Transport Association

Greenergy

INEOS Refining

Lotus Engineering

Members of the Public (2)

Neste Oil

RAC transport research foundation

Renewable Energy Association

RMI Independent Petrol Retailers Association

Shell UK Ltd

Society of Motor Manufacturers and Traders

Trading Standards Institute

UK Petroleum Industry Association

Valero Energy Ltd