ClientEarth

August 2020

CO_2 emission performance standards for new passenger cars and light commercial vehicles

Consultation response

Summary

- ClientEarth agrees that if CO_2 emission standards for new cars and vans that stem from existing EU legislation are to remain operable in the UK, secondary legislation is needed.
- However, we are concerned that the Government's proposed approach will decrease the overall regulatory impetus on vehicle manufacturers to reduce CO_2 emissions across their fleets. In order to live up to the Government's commitment to ensure that the "*UK regulation is at least as ambitious as the regulatory regime established in the EU*", the draft proposals need to be strengthened.
- Even the retention of existing EU standards in the UK will be insufficient to drive a shift away from petrol and diesel vehicles with the urgency required to deliver against legal commitments to reduce harmful air pollution and tackle the climate emergency.
- ClientEarth therefore urges the Government to put forward additional legislation, in the immediate term, to introduce a binding minimum zero exhaust emission vehicle ("ZEEV") mandate on motor manufacturers. This should require the sale of an increasing share of ZEEVs year-on-year, to set a clear path towards a complete phase-out of the sale of petrol, diesel and hybrid vehicles by 2030.

Background

Regulation 2019/631 (the "**Regulation**") sets targets for carbon dioxide ("**CO_2**") emissions for new cars and vans sold by manufacturers across the EU. This includes a target to reduce the average EU fleet-wide CO_2 emissions of all cars registered in the EU in any given year to 95g of CO_2/km by 2021, as well as an equivalent target of 147g of CO_2/km for new vans to be met by 2020. It provides a mechanism to set further CO_2 emission targets for both cars and vans for 2025 and 2030, by reference to a 2021 emissions baseline. The Regulation delivers these EU-wide average emission reduction targets through the imposition of individual targets on individual manufacturer's fleets.

The Government is currently consulting on proposals for a draft statutory instrument that introduces amendments to the Regulation. The statutory instrument determines how the Regulation would continue to apply to the UK after its exit from the European Union. This document sets out ClientEarth's written response to that consultation.

Detailed response

Question 1. Do you have any comments on the approaches proposed for UK targets and CO_2 emission forumlae? Are there unintended consequences of the proposed approach? If not, please explain your reasons in your response.

Failure to maintain EU CO_2 emission reduction targets

The Regulation will be "retained" EU law after the end of the Brexit implementation period, pursuant to section 3 of the European Union (Withdrawal) Act 2018. ClientEarth agrees that for the CO_2 emission standards for new cars and vans set under the Regulation to remain operable in a domestic setting, secondary legislation is needed. However, we are concerned that the Government's proposed approach will decrease the overall regulatory impetus on vehicle manufacturers to reduce CO_2 emissions across their fleets.

The proposals include the retention of the formula by which individual manufacturer targets are set under the Regulation, but amends this formula to include reference to the CO_2 emissions of manufacturers' UK-wide rather than EU-wide vehicle sales. The draft statutory instrument makes this change of scope without adjusting the "M_0" number to reflect the average weight of the UK (rather than EU) fleet. Under the curent proposals, individual manufacturer's targets for their UK car fleets would be calculated by reference to an M_0 number of 1,379.88kg. However, the average mass of cars sold in the UK is considerably higher than this. In 2018, the figure was 1434kg, compared to an EU average of 1378kg.[1] According to analysis carried out by Transport & Environment, the practical effect of failing to adjust the M_0 would be to increase the 2021 CO_2 emission reduction target that applies to cars sold in UK to over 100g/km; well above the EU target of 95g/km.

[1] See Transport & Environment's response to this consultation, available online here: : https://www.transportenvironment.org/sites/te/files/publications/2020_07_DfT_Consultation_response.pdf

The Government's suggestion that the "*UK regulation is at least as ambitious as the regulatory regime established in the EU*" and that the 95g/km 2021 target has "*not been amended*" is therefore misleading. The 2021 target would, in effect, be changed by the proposed draft statutory instrument. Manufacturers in the UK would be operating according to weaker regulatory requirements than those that will continue to apply across the remaining 27 EU Member States.

Given that the subsequent 2025 and 2030 CO_2 emission reduction targets set under the Regulation are calculated by reference to a 2021 baseline, a relaxation of the 2021 standard also risks having a knock-on impact on future targets in the UK. The proposals would allow for a weaker regulatory burden to perpetuate over the next ten years. This risks stifling the supply of zero exhaust emission vehicles ("**ZEEVs**")[2] in the UK, as manufacturers focus their sales to meet stricter regulatory requirements elsewhere.

To minimise this risk, when translating the Regulation to be operable in the UK after its exit from the EU, ClientEarth urges the Government to introduce an amendment which adjusts the relevant M_0 number to reflect the average vehicle mass of cars and vans in the UK. This would better ensure that the overall targets that apply in the UK from 2021 will at least match the 95g/km and 147g/km targets for cars and vans that will continue to apply at a EU level. This adjustment should also be carried over to the calculation of the susequent 2025 and 2030 targets, to ensure that UK emissions standards are not diluted over time against the EU equivalents.

The need for further legislation to set a pathway for the urgent phase-out of new petrol and diesel vehicles

In the immediate term, it is key that the UK does not fall behind the EU with respect to its regulation of vehicle CO_2 emissions. This is essential to ensure that manufacturers do not redirect their supply of ZEEVs to countries with more ambitious regulations. However, it is clear that even the retention of existing EU standards in the UK will be insufficient to drive a shift away from petrol and diesel vehicles with the urgency needed to protect people's health from harmful air pollution and tackle the climate emergency.

Road transport is the biggest source of harmful and illegal levels of nitrogen dioxide (NO_2) in towns and cities across the UK, contributing to up to 80% of the problem where illegal levels are found.[3] Road transport is also a significant source of particulate matter pollution. According to the Government's 2019 Clean Air Strategy, it is responsible for 12% of fine particulate matter ($PM_{2.5}$) emissions across the country, with an even higher contribution in the most polluted urban areas. In London, for example, road transport is responsible for 30% of local $PM_{2.5}$ emissions.[4] If the UK Government is to protect people's health from harmful pollution, as well as meet its ongoing legal obligations under the Air Quality Standards Regulations 2010 and National Emission Ceilings Regulations 2018, urgent action to tackle emissions from road transport is needed.

Surface transport is also a major source of greenhouse gas emissions. It accounted for 24% of the UK's greenhouse gas emissions in 2019. The Committee on Climate Change has recognised the need for

[2] The term 'Zero Exhaust Emission Vehicle' is used to recognise the non-exhaust component of emisisons from road transport, e.g. brake and tyre wear as well as any emissions from the energy supply.
[3] As detailed in the UK government's 2017 National Air Quality Plan https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/633269/air-quality-plan-overview.pdf
[4] https://www.london.gov.uk/WHAT-WE-DO/environment/environment-publications/pm25-london-roadmap-meeting-who-guidelines-2030

further action to curb emissions from road transport if the UK is to deliver against its upcoming carbon budgets and meet its net-zero goals. As part of this, the Committee has recommended that the Government bring forward its commitment to phase out the sale of new petrol and diesel vehicles from 2040 to 2032,[5] and "ideally" 2030.[6]

Analysis by Transport & Environment suggests that meeting existing EU CO_2 emission standards and low emission vehicle targets established by the Regulation will not even be sufficient to put the UK on track to meet its existing commitment to phase-out the sale of all new petrol and diesel vehicles by 2040, let alone the 2035 date proposed within the recent government consultation or the earlier date recommended by the Committee on Climate Change.[7]

ClientEarth appreciates that the additional regulation required to drive the necessary speed of change may fall outside of the scope of the statutory instrument that forms the subject of the current consultation. However, it urges the Government to pass further legislation urgently in order to secure a complete phase out of the sale of new petrol, diesel and hybrid cars and vans by 2030.

Firstly, an obligation on the Government to secure an overall phase-out should be set out in primary legislation, to ensure that future governments are bound by this long-term ambition.

Secondly, this should be backed-up by binding obligations on manufacturers to drive interim reductions in new petrol, diesel and hybrid vehicle sales and set a clear path towards securing a 100% phase-out. As recommended by the Committee on Climate Change in its latest progress report,[8] this should be via a minimum ZEEV mandate, requiring motor manufacturers to sell an increasing share of ZEEVs each year. This type of ratcheting mandate could help rapdily increase the availability of cleaner vehicles for consumers and businesses, and help lift existing supply-side barriers to uptake. Althought the average waiting time on a new electric car has significantly dropped in the past year, it is still as long as 12 weeks.[9] Alongside measures to increase demand for ZEEVs, it is clear that this type of regulatory driver is needed to ensure that the automotive sector plays its role in meeting rising demand.

Further detail on the steps ClientEarth considers necessary to tackle emissions from road transport is set out in its written response to the Government's recent consultation on ending the sale of new petrol diesel and hybrid cars and vans.[10]

[5] Reducing UK emissions: Progress Report to Parliament, June 2020, available here: https://www.theccc.org.uk/wp-content/uploads/2020/06/Reducing-UK-emissions-Progress-Report-to-Parliament-Committee-on-Cli.._-002-1.pdf
[6] See the letter to the Prime Minister dated 18 December 2019, available here: https://www.theccc.org.uk/wp-content/uploads/2019/12/Letter-CCC-to-Prime-Minister-Johnson.pdf
[7] See the analysis included in Transport & Environment's response to the present consultation, available here: https://www.transportenvironment.org/sites/te/files/publications/2020_07_DfT_Consultation_response.pdf
[8] Reducing UK emissions: Progress Report to Parliament, June 2020, available here: https://www.theccc.org.uk/wp-content/uploads/2020/06/Reducing-UK-emissions-Progress-Report-to-Parliament-Committee-on-Cli.._-002-1.pdf
[9] According to What Car?'s analysis of all 26 electric models currently on sale, available here: https://www.whatcar.com/news/electric-car-waiting-times-revealed/n21117
[10] Avaible here: https://www.documents.clientearth.org/library/download-info/consultation-ending-the-sale-of-new-petrol-diesel-and-hybrid-cars-and-vans-clientearth-response/

Question 2. Do you have any comments on the approach proposed for sales volumes and derogation thresholds? Are there unintended consequences of the proposed approach? If not, please explain your reasons in your response

Within the existing Regulation, Article 2(4) exempts any manufacturer selling less than 1,000 cars or light commercial vehicles per year across the whole of the EU from the relevant CO_2 emission standards. The Government's current proposals appear to involve directly lifting this 1,000 sales volume threshold into the UK-only context, without amendment. Applying the same threshold in a smaller market would effectively widen the scope of the exemption. As the UK car market represents roughly 15% of the EU market, and the UK light commercial vehicle market represents roughly 19% of the EU market, this would represent a clear and significant weakening of the existing regulatory impetus on manufacturers in the UK. We therefore suggest reducing the sales volume derogation to reflect the UK share of the overall EU market more accurately.

Question 3. Do you have any comments on the approach proposed for eco-innovations? Are there unintended consequences of the proposed approach? If not, please explain your reasons in your response.

ClientEarth has no further comments in response to this question.

Question 4. Do you have any comments on the approach proposed for super-credits? Are there unintended consequences of the proposed approach? If not, please explain your reasons in your response.

ClientEarth has no further comments in response to this question.

Question 5. Do you have any comments on the minor and technical changes proposed? Are there unintended consequences of the proposed approach? If not, please explain your reasons in your response.

ClientEarth has no further comments in response to this question.

To discuss this consultation response further, please contact:

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