LUBE-TECH

NO.2C

IMPLEMENTATION OF THE 'END-OF-LIFE' VEHICLE LEGISLATION.

FURTHER CONSULTATION PAPER FROM THE DTI IMMINENT.

SUMMARY

Environmental issues have received much attention in the past, and the BLF has played a major role in feeding back views of its members to the legislators. However, readers of LUBE may not be familiar with the situation regarding the 'end-of-life' vehicle (ELV) legislation, delays in the implementation of which has already caused a great deal of concern. A number of rumours, some of which have been perpetrated by the media, have done nothing to reassure the public, who are witnessing a substantial increase in the numbers of illegally dumped vehicles, as people are endeavouring to avoid paying the costs of scrapping a vehicle via the normal routes. This practice is more than likely to increase. Often, all means of identification of the vehicle are removed, and the vehicle is 'torched' so that the police have no means of tracing the previous owner. Scrapped cars have little value as far as recovery of metals and other components, yet present significant pollution hazards in the form of used engine and transmission lubricants, residual fuel, battery acid, antifreeze, washer fluid. Torching the vehicle additionally results in the generation of a mixture of lethal emissions. Malicious vehicle fires are increasing sharply. For example they rose from 42,200 in 1997 to 63,200 in 1999. Many of these result from joyriding, but the sharp rise has also been associated with the growing numbers of abandoned vehicles on the streets. A wide range of toxins is produced during the combustion of tyres, upholstery, batteries and paint - some of these toxins contain cyanide.

LEGISLATIVE BACKGROUND

Following the Council Resolution of 7 May 1990 on waste management policy, the European Commission proposed various measures to combat certain categories of waste. Several waste streams have therefore already been the subjects of Community regulation (waste oil, waste batteries and accumulators, waste packaging and sewage sludge etc.).

However, as with so many other environmentally-related issues, it is becoming accepted that it is not realistic to burden solely the disposer to act in an environmentally responsible manner, and the legislators have set out a number of compliance requirements for vehicle producers and ELV recycling firms.

The 5th Community action programme in the field of the environment and sustainable development stressed the need to modify both methods of production and development and consumer behaviour. The Community approach to waste management is based on two complementary strategies:

- avoiding waste by improving product design;
- increasing the recycling and re-use of waste.

By Resolution of 14 November 1996, the European Parliament called on the Commission to legislate on waste streams, in particular end-of-life vehicles, on the basis of product liability. The Commission took the view that a specific directive was necessary given the importance of this type of waste. This position is shared by the OECD Working Party on waste streams, whose 1995 report considered the treatment of end-of-life vehicles as a priority towards the overall objective of reducing waste.

The Directive defined an end-of-life vehicle as any type of vehicle which is waste within the meaning of Directive 75/442/EEC. The scope of the Directive therefore covers:

- any end-of-life vehicle designated as category M1 or N1 (as defined in section A of Annex II to Directive 70/156/EEC);
- two- or three-wheel motor vehicles and their components.

Waste prevention is the priority objective of the Directive. To this end, it

Act	Date of entry into force	Final date for implementation in the Member States
Directive 2000/53/EC	21.10.2000	21.04.2002

stipulates that vehicle manufacturers and material and equipment manufacturers must:

- endeavour to reduce the use of hazardous substances when designing vehicles;
- design and produce vehicles which facilitate the dismantling, re-use, recovery and recycling of end-of-life vehicles;
- increase the use of recycled materials in vehicle manufacture;
- ensure that components of vehicles placed on the market after 1 July 2003 do not contain mercury, hexavalent chromium, cadmium or lead, except in the cases listed in Annex II. The Commission must amend the Annex in the light of scientific and technical progress.

Vehicle manufacturers responded by substantially re-designing vehicles so as to increase the percentage of recyclable components and materials, and also by ensuring that such components and materials are more readily separable during the dismantling prior to scrapping.

The Directive also introduced provisions on the collection of all end-of-life vehicles (Article 5). Member States must set up collection systems for end-of-life vehicles and for waste used parts. They must also ensure that all vehicles are transferred to authorised treatment facilities, and must set up a system of deregistration upon presentation of a certificate of destruction. Such certificates are to be issued when the vehicle is transferred, free of charge, to a treatment facility.

An important aspect of the legislation was the requirement that the last holder of an end-of-life vehicle would be able to dispose it free of charge ("free take-back" principle). Producers must meet all, or a significant part of, the cost of applying this measure.

The storage and treatment of end-of-life vehicles is also subject to strict control, in accordance with the requirements of Directive 75/442/EEC and those of Annex I to the Directive. Establishments or undertakings carrying out treatment operations must strip end-of-life vehicles before treatment and recover all environmentally hazardous components. Priority must be given to the re-use and recycling of vehicle components such as batteries, tyres, and oil. (BLF members will already be familiar with the issues raised by the proposals of the Waste Oil Directive!)

At the moment, some 75% of end-of-life vehicles are recycled (metal content). The aim of the Directive is to increase the rate of re-use and recovery to 85% by average weight per vehicle and year by 2006, and to 95% by 2015, and to increase the rate of re-use and recycling over the same period to at least 80% and 85% respectively by average weight per vehicle and year. Less stringent objectives may be set for vehicles produced before 1980.

Member States must ensure that producers use material coding standards, which allow identification of the various materials during dismantling. The Commission must establish European standards on material coding and identification.

Economic operators must provide prospective purchasers of vehicles with information on the recovery and recycling of vehicle components, the treatment of end-of-life vehicles and progress with regard to re-use, recycling and recovery. On the basis of this information, Member States must report

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to the Commission every three years on the implementation of the Directive. The Commission must then publish a report on the implementation of the Directive.

Member States may transpose certain of the Directive's provisions by means of agreements with the economic sectors concerned.

Legislation providing for free take-back and producer responsibility is already in place, for example, in Germany, the Netherlands, Austria and Sweden. The Netherlands and Sweden applied the producer responsibility principle even before the directive was adopted. In the Netherlands, the producer is liable to pay a recycling fee when he markets a vehicle. The fee is then used to cover possible recycling costs.

WHAT IS THE UK DOING?

The UK was supposed to set the European End of Life Vehicles Directive into domestic law by 21 April 2002, and the government has come under fire for failing to do so. The European Union is currently considering whether to take the UK to the Court of Justice over the matter.

However, although the Government is still considering how best to tackle some aspects of the legislation, it is expected that implementing legislation will now be brought in during this year.

In particular the Government has considered a range of options for how to fund the stricter dismantling and recycling requirements during the transition period from 2002 to 2007, during which time it is not required to put the majority of costs for older cars onto manufacturers. However, the money to do this will clearly need to be raised from one source or another, and this has created a dilemma.

A range of possibilities exists, and these were analysed in a Regulatory Impact Assessment (RIA) last year. The main options are:

- Government takes no action, in which case car dismantlers pass on the extra costs to final owners when they take cars to be scrapped;
- Government funds the extra costs of recycling, either absorbing these in the overall tax burden, or recouping the money through higher motoring taxes;
- The motor industry is forced to pay, either directly or through an intermediate agency.

Subsequently the Minister announced in a parliamentary written answer on 21 June last year that the first of these options is to be adopted - i.e. that no new system will be set up, and the final users of cars will by default be made to bear the extra costs. This decision, however, has important social and environmental consequences, as set out below.

The RIA did not consider the social equity implications of the proposed measure in any detail, confining itself to the comment that final owners 'may' be less well off than owners of newer cars. This is in stark contrast to its detailed consideration of possible costs to the motor industry.

This is a far from adequate or satisfactory treatment of this issue, however. It comes as no great surprise that the government's National Travel Survey confirms that there is indeed a strong inverse link between wealth and age of cars owned. Although the survey was undertaken some years ago, there is no obvious reason why this pattern will have changed significantly; indeed, with more older cars remaining in the fleet, and more of the poorer households acquiring cars as time goes on, it may have intensified.

From these figures it can be seen that amongst motorists in the least wealthy fifth of the population, one third of all the cars are over ten years old - i.e. of an age at which they are likely to have to be scrapped in the coming years, and hence to incur the costs of disposal discussed below. In the wealthiest fifth, only 14 per cent of cars are of this age; and these are likely to be of a higher quality, better maintained and in generally better condition as well, and therefore less likely to need to be scrapped. From this it can be clearly concluded that the impact of the Government's proposals will be strongly regressive, with the poorest motorists two and a half or three times more likely to have to incur the costs of disposal than the richest. It is also obviously unfair for final owners unexpectedly to have to bear this cost, as they typically drive their cars less far, and have derived less value from them, than earlier owners did.

Clearly the proportion of very old cars is highest in the poorest neighbourhoods, and the temptation to avoid paying the costs of disposal of an old car will probably be greatest for the least well off. Indeed, particularly when scrappage results from a sudden breakdown or MOT failure, many of the least well-off motorists may find themselves in a 'can't afford to fix it; can't afford to scrap it' dilemma. Thus it seems likely that dumped or burned out cars will become even more commonplace, which is a major concern since research has indicated that the presence of abandoned vehicles on the streets encourages crime and can set a strongly detrimental (and visually harmful) tone to deprived communities.'

The number of cars abandoned each year is already startlingly high - local authority estimates suggest that up to 350,000 cars are dumped annually (although there are more conservative estimates as well). If this figure is correct, it represents around one in every six of the two million or so cars and light vans disposed of each year.

Furthermore, the number of abandoned cars is already rising steeply, because the value of scrap metal has plummeted, and the market for second hand parts has declined. In the past, scrap car dealers would typically have offered a small sum in cash to the owner of an ELV, thereby providing an incentive for final owners to dispose of their vehicles properly, or for totters to collect and deliver abandoned cars to a dismantler. Now, however, there is no cash incentive, and in some cases, firms are already charging owners up to £30 to take a car or van from them, particularly in the south. Furthermore, this adverse underlying trend is likely to continue irrespective of the new requirements of the ELV Directive, for example as the landfill tax increases, and as restrictions on land-filling scrap tyres become increasingly stringent.

The consultation, expected at the end of January or early February 2003, will look at the best systems for both time periods - until 2007 and after 2007 - with the DTI looking for views from any interested parties. Sources within Whitehall expect to see some kind of resolution by the summer of 2003, and any system implemented by the government is likely to leave some flexibility for the motor manufacturers to choose their exact method of compliance.

This situation has already led to a substantial upsurge in the numbers of abandoned cars, and the imposition of an extra charge to implement the requirements of the ELV Directive will perhaps triple the sum payable for disposal, pushing it up towards £100 in some areas.

Clearly the Government's proposal will greatly aggravate the problem of abandoned cars, but it is almost impossible to estimate by how much. The RIA argues that an additional 147,000 vehicles will be abandoned, but many sources have challenged this estimate, and suggest that the true figure may be much higher.

In the meantime, new government measures designed to combat the growing problem of scrap vehicles abandoned by owners at the roadside were introduced by Stephen Byers, Transport Minister at the time. The new rules gave local authorities greater powers to remove abandoned vehicles anywhere in England after 24 hours rather than the seven days, as previously. It also gave local authorities powers to dispose more quickly of unlicensed vehicles under DVLA powers after seven days rather than 35 and would also target owners who deliberately abandon their cars leaving taxpayers to foot the bill.

The car industry supports the proposal to introduce reforms to the vehicle registration system that will make procedures for transferring ownership more secure. This will ensure that irresponsible owners who abandon their vehicles will be made accountable.

However, a report from the not-for-profit think-tank the Institute for European Environmental Policy will add to fears of a "fridge mountain"-style crisis when ELV regulations come into force. The report states that around 250,000 more vehicles will be abandoned each year in the UK, and says the annual figure could even reach 600,000.

Observations on the Regulatory Impact Assessment estimate of the increase in abandoned vehicles

The RIA includes calculations of the likely increase in numbers of abandoned vehicles from both the licensed and unlicensed parts of the car and van stock.

There are estimated to be up to two million vehicles in the UK for which the DVLA has no reliable data on the registered keeper, and most illegally dumped cars are from this part of the stock. For unlicensed cars, the RIA argues that the value of illegally abandoning them will add only 2.5 per cent to the financial benefits of avoiding road tax, insurance, etc, and hence that the population of unlicensed cars will rise by only this percentage. This gives rise to a calculation of only a 7,000 increase in the number of unlicensed vehicles abandoned, in comparison to the 280,000 that are currently abandoned annually. There are however a number of major flaws in this argument:

- It assumes that there is a linear, one-to-one relationship between the value of having an unlicensed car and the number of such cars on the road. In reality this relationship is unknown, and there appears to be no strong reason to adopt the value suggested here.
- It assumes that drivers are fully aware of all the costs avoided and are capable of performing the rather complex calculation set out in the RIA. In reality most motorists are in any case unaware of most of their motoring costs apart from fuel costs, and apply a rather high discount rate to costs and benefits in the past or future, so they would almost certainly perceive the extra disposal cost as a far bigger cost increase than is suggested here.
- It assumes that the driver of the unlicensed vehicle has the benefit of cheap motoring throughout the five years between 2002 and 2007. In fact the relevant period is only four and a half years to begin with, and is likely to shrink further before UK provisions are in place. Also, many will not have the car in question throughout this period. For example, many unlicensed cars will (by definition) need to be scrapped before the end of 2006, so the benefits to their owners will be less. Furthermore, an unknown (but potentially very large) number of additional motorists may be tempted to 'un-license' their cars as they near the end of their useful lives, with a view to abandoning them later.
- The calculation of the numbers is critically dependent upon the charge payable to dispose of an ELV, and the total payable may well turn out to be higher than the £60 indicated.

Each of these points suggests a significantly higher number of abandonments; comparing the estimated increase to the current number of abandonments of unlicensed cars each year and it can easily be argued that this estimate is likely to be far too low.

For licensed vehicles, the rate of illegal abandonment is currently very low - perhaps 70,000 out of nearly two million ELVs scrapped per year. This, the RIA document rightly argues, is largely based on a perception that the risk of being traced and punished is high. In fact, however, the risk of being successfully prosecuted is, to quote government sources, 'negligible'; and if the rate of abandonments were to increase and this fact received the sort of press attention which was recently devoted to abandoned fridges, then public perception of the risk might change rapidly. As a consequence, many more previously law-abiding motorists might be tempted to dump or torch their old cars.

The RIA suggests that the number of licensed cars abandoned each year might treble as a result of the scrappage cost, but this is based on a similar set of microeconomic calculations as those criticised above; and in the same way, it seems very likely that this estimate is also too low.

On this basis it can easily be argued that the real increase in abandonments may be much higher - possibly several hundred thousand, which could take the annual total to well over half a million.

The Government has concluded from this that the do-nothing option (i.e. making last owners pay for disposal) remains the cheapest thing to do, even though it has undertaken to compensate local authorities for the additional cost of removing the extra number of cars abandoned. The RIA's calculation is in essence that this extra cost for removing dumped cars is less than that of setting up a new funding system.

In reaching this conclusion, however, it seems to have exaggerated the costs of the alternatives, and underplayed the cost of extra abandoned vehicles. For example:

- The costs of setting up a fund management system are based on directly scaling up the estimated costs per car under a similar system in the Netherlands. However, a UK system would need nearly ten times the capacity of the Dutch equivalent, yet no allowance has been made for the considerable economies of scale which could result. This is important, as all the cost estimates of all the funded options hinge on this figure.
- External costs of police, fire and environmental damage caused by dumped cars are estimated to fall 'potentially to zero' on account of local authorities' new powers to tow away cars more quickly. Clearly there will be reductions, but not to zero. Fire service costs will not fall greatly simply because abandoned cars are picked up more quickly, and could well rise if a substantial number of additional cars are abandoned and torched - a practice which has risen steadily in recent years as a result of increasing abandonments1. No estimate of these costs is included, however invoices will be processed manually by both the manufacturer (or administering agency) and the dismantler. This is a bizarre assumption, which would see even an average sized dismantling firm sending over a thousand separate invoices to each of the major manufacturers (or agency) each year. In practice, an automated system is almost certain to be developed, and to be far cheaper to operate. Furthermore, most of the information needed will already have been collected for the purposes of a certificate of destruction, which is already required under the ELV Directive, so the incremental costs of data handling seem to be greatly exaggerated. This however is ostensibly one of the central reasons why a new reimbursement system was ruled out.
- Estimates of the costs of a system to reimburse dismantlers are based on the assumption that each ELV will have to be invoiced individually.

A further point is that the RIA assumes that local authorities can remove abandoned cars at an average cost of £40, which appears quite low, given that a notice must be placed on the vehicle; it must then be transported into storage, and then taken on to a dismantler after a week or more; and the attendant paperwork must be completed before a vehicle can be disposed of. Furthermore, these costs might rise if the number of abandonments were to increase substantially.

In the first half of the table overleaf the RIA argues that the overall cost of treating cars will not be affected by the implementation method chosen - i.e. roughly the same number of cars will need to be treated come what may, irrespective of how they get to the dismantlers; and hence that the additional administrative and other costs are the key consideration in deciding on the best system. This is true to a point, but it overlooks the important issue of who pays these costs.

Crucially, if the number of abandonments rises sharply, it will be local government, and hence ultimately the Treasury, which has to face the treatment costs as well as the disposal costs - i.e. potentially at least £100 per vehicle for perhaps an extra 250,000 to 350,000 ELVs. Not only would this make the chosen option the most expensive of all the possibilities, but also, it will be the taxpayer that ultimately foots much of the bill.

WHAT IS THE ALTERNATIVE?

Putting together the various arguments on costs and benefits from the above, it can be seen that there is in fact little to choose between the three options in terms of their administrative costs and overheads of a new scheme, as against the additional disposal costs of more dumped cars. However, the alternatives to the Government's preferred option (i.e. to pay directly from the exchequer, to raise motoring taxes, or to force industry to pay) appear to be rather unpalatable. Instead, therefore, we will have a system which is inequitable, will lead to significant increases in the number of dumped cars on the streets, and will probably ultimately impose the greatest burden on the taxpayer.

A far more equitable approach would be to increase vehicle excise duty (VED) by approximately 4 per cent across the board, or about £5 on average - or less, if the Treasury or the motor industry could be persuaded to contribute. This would pay for the entire ELV recycling scheme and obviate the need to raise scrappage charges to final users. It would also be far fairer, in that the cost would be spread across all motorists, and if the additional charge were imposed as a percentage increase, it would be moderately progressive in that wealthier motorists, who tend to drive larger cars, would pay more.

METAL RECOVERY COSTS

There is much concern from the Motor Vehicle Dismantlers' Association that the value of scrap metal will plummet and that vehicle-dismantling companies will never recoup the substantial investment needed to meet the Directive requirements. Typical of these organisations is G.D. Metal Recycling Ltd. (G.D.), one of the biggest recyclers of ferrous and non-ferrous metals in the country. They collect 500,000 tonnes of scrap metal from industry each year, and processes it into a form from which it can be melted down to become the basis of new products. It's a major operation, with some 5,000 containers sited at manufacturing operations around the country, and with a fleet of 70 specialist vehicles providing a 24-hour collection service.

G.D. have some 500 cars a day brought in to their various sites around London alone, and a major issue for them is the implementation of the new legislation, under which a car has to be de-polluted before it goes to scrap. They have a warehouse where they are experimenting at the moment with suction equipment, and looking for the quickest ways of dealing with the oils and fuel before the cars go to the baler. All of their sites have a five-metre sleeper wall

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around them, are concreted, and have oil interceptor tanks so that any possible contamination is contained within the site.

By 2007, complete disassembly lines will be necessary and, given the low scrap value of a car (no more than £20 to the company), it will be difficult to meet the new regulations while still running a worthwhile business.

FURTHER DISCUSSIONS

The consultation will be based to a large extent on discussions that have been carried out at meetings of the DTI's ELV working group. The group is made up of representations of both the motor industry and the recycling industry, including the Society of Motor Manufacturers and Traders and the British Metals Recycling Association.

Motor manufacturers are still said to be keen on providing their own network of accredited ELV treatment facilities. They have rejected the "producer choice" option suggested by the government last year

However, metal recyclers are unhappy with motor manufacturers arranging the contracts for handling the ELVs. Recyclers are worried that they might put large investments into their facilities to reach tighter standards on ELV recovery, and would not necessarily be guaranteed a contract with a motor manufacturer from 2007.

Their preferred idea is for a system of 'vehicle recovery notes' similar, but not as complex, as the system that has been in place in the packaging waste industry since 1995. Recyclers feel that this system would spread ELV recovery through the industry and would have the added bonus of facilitating the presentation of compliance data to the government.

It is understood that as far as the DTI is concerned, the possibility of vehicle recovery notes is still "on the table", but the government has been cautious so far when it comes to any system seen as unpopular by the motor manufacturers.

Metal recyclers are also unhappy about the 'last owner pays' plan leading up to 2007. The DTI has said that costs for disposal will be around £40 per vehicle, but the scrap industry believes the figure is much nearer £100. Fears are that last owners will refuse to pay these costs, but the Treasury has rejected adding these costs to either road tax or the price of new cars.

The IEEP report recommends an increase in the vehicle excise duty by around £5 per car. However, metal recyclers would prefer to see costs placed onto the "front end".

SOCIAL EQUITY

The Table below summarises the costs estimated by the DTI for the purposes of the RIA of the ELV Directive.

TOTAL ESTIMATED COSTS OF ELV DIRECTIVE

Source: RIA of ELV Directive

CONCLUSIONS

In summary, the main conclusions to be drawn from this analysis are as follows:

- The chosen arrangements will unfairly disadvantage the poorest motorists.
- Many more old cars will be abandoned or torched as a result - perhaps over a quarter of a million per year - and the Government appears to have underestimated these figures.
- The cost to the taxpayer of removing these additional vehicles will run into tens of millions.
- A far more equitable approach would be to increase vehicle excise duty by approximately £5 per car.

RECENT TIMETABLE OF RELEVANT UK ACTIVITIES

APRIL 2001

A conference in London revealed some of the costs of ELV recycling but left some delegates unclear as to how the directive will be implemented.

JULY 2001

The UK government was preparing a consultation paper on how the End-of-Life Vehicles Directive would be implemented.

AUGUST 2001

A consultation paper was issued by the Department of Trade and Industry with three options for implementation of the directive.

JULY 2002

An important announcement from the Department of Trade and Industry saw manufacturers escaping the burden of paying for end-of-life vehicles before 2007.

October 2002. Also, a new, fifth option is being worked on by all sides in the consultation group looking into the implementation of European end-of-life vehicle legislation. Details have emerged concerning the "producer choice" fifth option being worked on by the Department of Trade and Industry's end-of-life vehicles directive consultation group.

NOVEMBER 2002

Motor manufacturers have rejected the Department of Trade and Industry's suggested Producer Choice option for implementing end-of-life vehicles legislation in the UK.

JANUARY 2003

The Department of Trade and Industry is expected to issue a further consultation paper on the options for dealing with the UK's end-of-life vehicles in the next few weeks.

DAVID MARGARONI

	LOP (Last Owner Pays)	PP (Producer Pays)	EP (Exchequer Pays)
Treatment costs			
Treatment costs for current abandons	£60 x 350,000 ELV = £21 million	£60 x 350,000 ELV = £21 million	£60 x 350,000 ELV = £21 million
Treatment costs for increased abandons or	£60 x 147,000 ELV = £9 million £60 x 350,000 ELV = £21 million		
Treatment costs for legally disposed ELV	£60 x 1,503,000 ELV = £90 million or £60 x 1,300,000 ELV = £78 million	£60 x 1,650,000 ELV = £99 million	£60 x 1,650,000 ELV = £99 million
Subtotal for treatment costs	£120 million	£120 million	£120 million
Additional costs of implementation			
Collection costs for increased abandons	£40 x 350,000 ELV = £6 million or £40 x 350,000 ELV = £14 million		
Administration costs or		£24 million £32 - £43 million	£26 - £27 million £36 million
Total costs			
Total costs	£126 million or £134 million	£144 million or £163 million	£146 million or £156 million