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COMMISSION STAFF WORKING DOCUMENT

GUIDELINES ON FINANCIAL INCENTIVES FOR CLEAN AND ENERGY EFFICIENT VEHICLES

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1. Introduction

Development and deployment of clean and energy efficient vehicles have been regarded as one of the tools to lower the environmental impact of transport as well as to strengthen the European automotive industry striving towards increased innovativeness and global competitive advantage. To this end, in the 2010 Communication "A European strategy on clean and energy efficient vehicles"[1] the European Commission outlined a strategy for encouraging the development and uptake of vehicles with low environmental impact. Among over 40 concrete measures to be implemented by the Commission, the Communication contained a commitment to present a set of rules which should be taken into consideration while preparing financial schemes for incentivising the deployment of the clean and fuel efficient vehicles.

Defining common principles for Member States intending to introduce any form of financial incentives also constituted one of the policy recommendations of the High Level Group in the recently adopted CARS 21 final report. In the CARS 2020 Communication which presents proposals of concrete political actions following the outcome of the CARS 21 process, the Commission acknowledged the importance of the guidelines and set a number of pre-conditions which should be considered while developing incentive schemes.

Taking into consideration the stakeholders' recommendations, this Commission Staff Working Document aims at giving practical guidelines to Member States wishing to introduce financial incentives for energy efficient vehicles, with a view to enhance their effectiveness and improve coordination of these measures across the EU. The Guidelines provide a reference for the Member States on the implantation of demand side measures, they identify best practices and encourage Member States to co-ordinate their activities in order to avoid unnecessary distortion of the Internal Market and maximise their supportive effect on the market uptake of clean vehicles. When referring to "mandatory principles" these guidelines list existing legally binding principles in order to facilitate compliance with these principles.

2. Background

In the 2010 Communication, the Commission recognised the need for demand measures including the financial incentives and indicated its support for Member States that wish to introduce such incentives. It also mentioned the Commission's intention to strengthen the coordination of those schemes in order to ensure their full effectiveness and to prevent distortion of the Internal Market.

In their reactions to the Commission Communication, both the Council[2] and the European Parliament[3] expressed their strong support for the guidelines. As requested by the Council, a

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[1] COM(2010)186 final

[2] Council conclusions of 25 May 2010, in particular paragraph 13

[3] P7_TA(2010)0150, EP resolution of 6 May 2010 on electric cars, in particular paragraph 14

consultation with Member States and stakeholders has been organised. This process started with a seminar held on 21st September 2010, where several Member States provided their experience with financial incentives in order to enable the identification of best practices.

This was followed by a discussion in the re-launched CARS 21 High Level Group on the competitiveness and sustainable growth of the automotive industry in the EU. Common principles which should be considered while preparing financial incentives schemes have been agreed and the development of financial guidelines based on the shared rules became one of the recommendations of the High Level Group included in the CARS 21 final report[4] adopted on the 6 June 2012.

The need of providing targeted fiscal measures aimed at facilitating a more rapid penetration of fuel-efficient vehicles has also been expressed in the two EU Regulations defining CO_2 emission limits for new passenger cars[5] and vans[6] (recitals 10 and 9 respectively). Both pieces of legislation address the necessity to complement introduced emission targets with a set of concrete fiscal measures, which would support reaching the required fleet emission levels.

A similar call for strong fiscal measures was present in the 2007 Communication on the 'Results of the review of the Community Strategy to reduce CO_2 emissions from passenger cars and light-commercial vehicles'[7]. In the Communication the Commission voiced the need for an implementation of concrete fiscal incentives which would stimulate the demand for fuel efficient vehicles and thereby facilitate the deployment of low CO_2 emission vehicles in the market. Targeted taxation was in addition one of the 3 pillars of the EU strategy on the CO_2 reduction from cars[8].

An alternative fuel strategy for Europe including the necessary infrastructure has been announced in the 2011 Transport White Paper[9]. This is developed in the Communication[10] and the Directive[11] of the Clean Power for Transport package. Financial incentives may help to accelerate the build-up of alternative fuel infrastructure and the market introduction of alternative fuel vehicles.

3. Rationale

A great number of policy measures have been adopted at EU, national and regional level in order to support the development and supply of clean vehicles, for example through regulatory initiatives and funding for research and innovation. It is increasingly acknowledged that, in order to complement such supply measures and increase the efficiency of the public policy effort in greening road transport, also demand measures are needed which improve customer awareness and acceptance of cleaner vehicles, thereby fostering their market uptake.

In that respect, it can be noted that, in recent years, many Member States have introduced or announced the introduction of incentives for clean or energy efficient vehicles while others are considering this opportunity. While the large majority of these incentives all seem to have

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4 Available on http://ec.europa.eu/enterprise/sectors/automotive/files/cars-21-final-report-2012_en.pdf
5 Regulation (EU) 443/2009
6 Regulation (EU) 510/2011
7 COM(2007) 19 final
8 COM(95) 689, Council conclusions of 25.6.1996, European Parliament resolution of 22.9.1997.
9 COM(2011)144 final
10 COM(2013) 17 final
11 COM(2013) 18 final

a similar objective, i.e. to promote the purchase and use of cleaner vehicles, the adopted schemes show significant differences in the way they are implemented and in the types of vehicles that are promoted by the schemes. No particular upstream coordination of these incentives has been provided for at European level. This has led to concerns that the benefits could be outweighed by the significant differences in such incentives across Member States, which will have detrimental effects on the functioning of the Internal Market.

For these reasons, the presented Guidelines on financial incentives for consumers to purchase fuel efficient vehicles are indispensable in order to encourage coordination of demand-side measures adopted in Member States and ensure they do not violate the principles of the Internal Market and are in full compliance with the existing State aid rules.

4. Scope

In line with the Communications, these guidelines apply to light-duty vehicles (cars and vans, categories M1 and N1), heavy-duty vehicles (buses and trucks, categories M2, M3, N2 and N3) as well as two- and three-wheelers and quadricycles (L-category vehicles).

The vehicle's energy efficiency and the extent to which it could be considered as 'clean' can be defined by means of several approaches each giving different outcomes. Due to the fact that the incentives related to the emissions of regulated pollutants of light-duty and heavy duty vehicles have already been addressed by the 'Guidelines on financial incentives for vehicles'[12] issued in 2010 and since the majority of already implemented incentives focus on CO_2 emissions, considering CO_2 emissions (or CO_2 equivalent of total greenhouse gas emissions if appropriate at a later stage) would be the most natural approach.

In case of light-duty vehicles tailpipe CO_2 emission measured during the homologation process and included in the certificate of conformity would be the preferred criterion for calculating financial support. For heavy-duty and L-category vehicles, while there is currently no measurement under type approval legislation of vehicle CO_2 emissions, these guidelines will apply to vehicles with low emission technologies, based on clear evidence provided by applicants of significant reductions in vehicles' CO_2 emissions. Once a harmonised measuring methodology for CO_2 is adopted for the latter categories of vehicles applications for financial incentives will be aligned with those applying to cars and vans.

The Guidelines will apply to financial incentives granted in all forms, such as straight grants, loans, tax deductions, other kinds of fiscal incentives or incentives in other monetary form, be it positive or negative (penalties).

It is understood that financial incentives are measures, which apply in addition to general framework conditions for vehicles, such as vehicle registration and circulation tax systems, energy taxation, etc. The incentives are designed to modify the general conditions in such a way as to increase the market demand for a certain type of vehicle, with particular environmental performance. It is acknowledged that the overall impact of an incentive on vehicle demand will also depend on the general framework conditions applying to the market under consideration. These guidelines focus, however, on the additional market-shaping effect of the incentive, rather than the underlying framework conditions. Nevertheless, most principles are also applicable for these general conditions.

[12] SEC(2009)1589 final/2

5. Guiding principles

Incentives may support the market uptake of energy-efficient vehicles in two ways:

– Through a pull-effect by enhancing demand for those vehicles from consumers

– Through a push-effect by making it more attractive for manufacturers to undertake specific development in order to supply vehicles that benefit from those incentives.

Incentives are most effective when both effects can be triggered. The first effect will apply to vehicles that meet the defined criteria and are offered in the market, including on smaller markets. The second effect, however, will only be effective if a critical market mass is created providing sufficient leverage to justify specific development and/or equipment from manufacturers. In order to trigger the push-effect in the EU market, it is important that Member States coordinate the design of their financial incentives so as to create a critical mass on the European scale.

The Guidelines will be divided into two parts presenting obligatory and recommended principles. Providing obligatory principles within the Guidelines aims at defining legal framework set by the Treaty on the Functioning of the European Union within which Member States must operate in order not to violate the provisions of the Treaty. Implementation of the recommended principles is not mandatory, however, highly recommended as it will help reaching most benefits from the perspective of the Member States and positively contribute to the Internal Market.

5.1 Mandatory principles

All financial incentives granted by authorities on different levels in Member States must comply with the Treaty on the Functioning of the European Union and existing EU-legislation, in particular with the following principles.

a) Non-discrimination

Incentives must be non-discriminatory with regard to the origin of the product concerned. They should avoid favouring only the sale of vehicles of domestic manufacturers and should not include vehicle characteristics which could discriminate against similar vehicles coming from other Member State(s) than the one, where the incentives are applicable.

<u>Example:</u>

Incentives which favour by any means a specific manufacturer or place of origin should be considered discriminatory.

b) Community type-approval legislation

Incentives must be compatible with the Community type-approval legislation, which provides for the mandatory technical requirements for new vehicles with the exception foreseen under section 4 for heavy-duty and L-category vehicles. In particular, they should not *de facto* impose requirements which are not covered in type-approval legislation and selected on an arbitrary basis as this might lead to a discriminatory character of the scheme.

<u>Example:</u>

Binding the financial incentives for vehicles with an additional requirement related to a specific NO_2 emission (not measured during the type-approval process) would not be considered in line with the Guidelines.

c) State aid rules

Incentives must be compatible with Treaty provisions on the State aid and with the Regulations or Guidelines the Commission has adopted under these provisions. As set out in Article 107 of the TFEU, State aid granted by a Member State is prohibited unless it is compatible with the internal market. Therefore, Member States must assess whether the intended measure qualifies as a State aid and if so, they must comply with the notification obligation under the State aid rules.

Providing financial incentives to undertakings to purchase clean vehicles in form of a bonus may constitute State aid in the sense of Article 107(1) TFEU. If the amounts of aid exceed certain ("de minimis")[13] thresholds or the scheme does not meet the automatic conditions for compatibility with EU State aid rules under the block exemption regulation[14], the scheme-must be notified to the Commission.

<u>Example:</u>

Where a Member State wishes to grant notifiable investment aid to certain undertakings for the purchase of vehicles which go beyond or in the absence of vehicle specific EU standards, the scheme will have to comply with the requirements set out in Section 3.1.2 of the EU Guidelines on State aid for environmental protection[15]. This includes making sure that the size of the incentive avoids over-compensation of additional costs of the cleaner vehicle compared to a suitable, less environmentally friendly alternative.

d) Public Procurement

The financial schemes shall take into consideration the provisions of the Directive on the promotion of clean and energy-efficient road transport vehicles[16] (“Clean Vehicle Directive”) - Directive 2009/33/EC of 23 April 2009, which aims at stimulating the market for clean and energy-efficient vehicles, thus contributing in the transport sector to the energy, climate and environment policies of the EU.

The Directive applies to vehicles purchased by contracting authorities and contracting entities as defined by the public procurement Directives[17] and to public transport operators as defined

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13 Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid, OJ L 379, 28.12.2006, p. 5–10.

14 Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) OJ L 214, 9.8.2008, p. 3–47, in particular Article 19.

15 See for instance Section 3.1.2 of the Community Guidelines on State aid for environmental protection, OJ C 82, 1 April 2008, p. 1: Aid for the acquisition of new transport vehicles which go beyond Community standards or which increase the level of environmental protection in the absence of Community standards.

16 Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles, OJ L 120/5 (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:120:0005:0012:en:pdf)

17 Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors; Directive

by the Regulation on public passenger transport service[18]. The Directive requires that lifetime operational energy consumption, emissions of carbon dioxide (CO_2), and emissions of oxides of nitrogen (NO_x), non-methane hydrocarbons (NMHC) and particulate matter (PM) are taken into account.

e) Notification under Directive 98/34/EC

In accordance with Directive 98/34/EC, technical regulations have to be notified at a draft stage. Technical regulations include so-called de facto technical regulations which are inter alia:

"*technical specifications or other requirements or rules on services which are linked to fiscal or financial measures affecting the consumption of products or services by encouraging compliance with such technical specifications or other requirements or rules on services; technical specifications or other requirements or rules on services linked to national social security systems are not included*." (third indent of the second subparagraph of point 11 of Article 1 of Directive 98/34/EC).

As they are linked to compliance with certain technical requirements (for example CO_2 emissions) financial incentives that are based on these requirements are *de facto* technical regulations within the meaning of the Directive thus triggering the obligation to notify such draft measures under Directive 98/34/EC. This notification will be treated in accordance with the procedure applicable under that Directive.

5.2 Recommended principles

In addition to the mandatory principles mentioned above and in order to limit the fragmentation of the internal market and maximise the effectiveness of the financial incentives across the EU, it is highly recommended that Member States introducing these incentives also apply the recommended principles. In the absence of the CO_2 emission regulation for heavy-duty and L-category vehicles the principles will, in the first place, apply to light duty vehicles, however, they should also be considered when implementing incentives for heavy-duty and L-category vehicles with low emission technologies. Wherever reference is made to CO_2 in the following, this may be read to include other greenhouse gases if appropriate at a later stage.

a) technological neutrality

Incentives should not be limited to vehicles equipped with a specific power-train or auxiliary technology. This would be discriminatory with respect to other vehicles with the same environmental performance. Such an approach would leave room for granting financial stimulus to technologies or products selected on an arbitrary basis, create difficult definition problems and create an unlevelled playing field.

Example:

Incentives which are granted for:

2004/18/EC of the European Parliament and of the Council on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts

[18] Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road

– vehicles with a specific eco-innovation (ex. start-stop system),

– electric vehicles (and not to hydrogen vehicles, both having zero vehicle emissions of CO_2),

– hybrid vehicles (but not to other vehicles with the same CO_2 performance)

should be deemed incompliant with the Guidelines.

b) common performance-criteria

Instead of technology-based criteria, incentives should therefore be available for all new vehicles with a desired environmental performance. Since the Guidelines refer to the CO_2 emissions, the common reference will be then a value measured in a common and objective manner during the homologation procedure and laid down in the certificate of conformity of a vehicle. In order to limit the diversity of criteria used, it is proposed that this criterion is the reference for granting financial incentives.

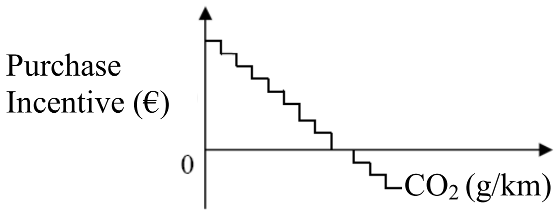
<u>Example:</u>

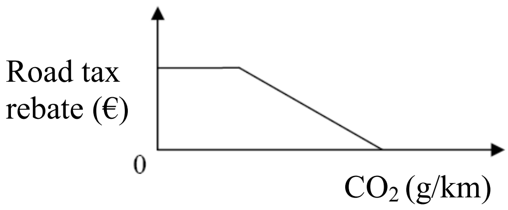
Schemes which are based on a different driving cycle than the one used for the type approval homologation process (currently NEDC) for defining CO_2 emission performance would be considered incompliant with the Guidelines.

c) proportionality

In order to ensure fair treatment of vehicles with similar performance and maximise the effectiveness of the incentives, it is also proposed that the incentive is granted proportional to the performance. It is recognized that the application of thresholds can be a way to provide sufficient transparency for the customer, however, it would be recommended to apply the steps in such a way that the difference in incentive above and below threshold is limited and that the existing number of thresholds is sufficient to ensure a proper level of proportionality.

Examples of financial incentives that would *a priori* be in line with the above principles:





<u>Example:</u>

Substantial incentives for all vehicles with CO_2 performance below X g/km (but no incentive for vehicles with CO_2 performance just above this level) would be *a priori* not in line with the above principles.

d) size of incentive

The size of the incentive should not exceed additional cost of technology in order to reduce the risk that the incentive is used for subsidising manufacturers. This would need to be demonstrated by assessing which vehicles are capable of qualifying for the incentive and comparing them with a relevant benchmark vehicle. It is recognized, however, that a given CO_2 performance may be reached by a variety of technologies and vehicle configurations.

Example:

Providing financial incentives for an electric vehicle which is higher than the price difference between a vehicle with an electric powertrain and a comparable in type, size and features vehicle with an internal combustion engine should be avoided.

e) link to CO_2 limits in the relevant EU legislation

Implemented thresholds for the financial incentives should take into consideration the CO_2 emission limits defined by the relevant EU legislations. It would be recommended to incentivise vehicles which emissions outperform the target values presented in the CO_2 regulations on emissions of passenger cars and vans.

Example:

A scheme incentivising the purchase of vehicles with a CO_2 emission value below the threshold of the 'super-credit' (instead of choosing an arbitrary limit not linked to the relevant EU legislation) will be highly recommended.