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Policy Update

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AGENDA

- Introduction
- MOT
- Flexible Working
- Block Exemption

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MOT

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MOT - Background

- **Consultation published in January 2023**
  - Awaiting DFT Feedback and Final Policy
  - Covers light vehicle testing - classes 1-7
    - car, motorcycle, Light Commercial (under 3.5t), minibuses
  - Seen as timely - new vehicle technology and environmental
  - 2 part consultation
    - Part 1 – frequency and short term changes
    - Part 2 – longer term developments

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MOT - Current System

- Responsibility for system - DVSA (GB) and DVA (NI)
  - Northern Ireland different system and not part of this consultation
- MOT first Introduced in 1960
- 1967 became current 3-1-1
- Test developed for traditional ICE Vehicles
- Test checks roadworthiness and basic emissions
  - Emission testing introduced in 2018
- System was suspended for 6 months in the pandemic
- 30 million MOT p.a. - delivered by Approx. 23, 400 testing stations

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Consultation Proposals

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Part 1 - MOT Frequency

- **3 Options**
  1. No change to current 3-1-1
  2. Increase 1st MOT to 4 years
  3. Increase 1st MOT to 5 years

Does not include extension to intervals following the 1st MOT e.g. 4-2-2

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MOT Frequency

Why look at change now

- Government previously consulted on changing the frequency in 2016
  - Decided to shelve following strong lobbying from MOT garage sector and road safety lobby
- Vehicle technology rapidly changing
- Vehicle mileage has fallen since pandemic – cars from 32k to 25k pa – vans 70k to 59kpa
- Road Safety has improved
- Much of Europe has 4-1-1 (or 4-2-2)
- Northern Ireland recently moved to 4-1-1

- **Potential Benefits of Change**
  - Reduce Regulatory burden on households – costs £100m p.a.

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MOT Frequency

Concerns

- Primarily Safety
  - MOT failure rates rise with vehicle age – at 3 years 14%, at 4 years 16%
  - Later 1st MOT, higher risk that a vehicle has a dangerous fault
  - Concern road casualties could rise - 1-3% (4yrs), 3-6% (5yrs)
  - Later 1st MOT will mean higher mileage vehicles being presented – with higher risk of failing
  - Brakes and tyres the major failure defects
- Other concerns
  - Loss of revenue for testing stations – maximum test fee for cars is £54.85 (includes £2.05 DVSA fee)
  - Environmental – risk not testing sooner will mean more cars polluting
  - Vehicles missing out on service and maintenance – MOT combined with service
  - Impact on DVSA – fewer MOT's will mean less revenue from the MOT fee – approx. £5.3m pa for 4-1-1

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Other Part 1 Proposals

Emissions From Diesel Vehicles

- Currently purely visual inspection ensuring particulate filter in place
- More effective testing regime could be introduced
  - Successfully done in Netherlands and Belgium
  - Germany and Switzerland introducing
- Will requires garages to invest in equipment

Public Awareness Campaign

- Concern consumers will neglect servicing
- Customers to be made aware that service does not always check safety issues

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Part 2 - Long Term Proposals

Testing Based on Vehicle Type, Mileage and Use

- Could extend some testing intervals – younger cars
- Base the test on mileage
- Could make the test stricter but less frequent
- Light commercial vehicles could be different to cars
- Belgium allows 2 year interval for vehicles under 6 years old and 100km

Hybrid and Electric Vehicle Testing

- Current test designed for ICE vehicles
- Hybrid emission currently not tested due to practical issues
- Battery Health not checked
- ICE to EV conversions not checked for safety
- ADAS vehicles will need to be considered

Environmental and Emission Testing

- Currently no direct NOx testing
- CO_2 emission testing relies on WLTP – not verified by the MOT
- Vehicle noise is observational and not monitored

Recalls and Crime Prevention

- **Vehicle Safety Recalls**
  - Concern about outstanding recalls
  - Will be added to test certificate
  - Could make a long term outstanding recall a MOT failure
- **Vehicle Crime and Fraud**
  - Major concern that delaying 1st MOT will increase mileage fraud
  - Looking for views on how to reduce the problem
  - Currently the MOT records the milage but does not check its accuracy – some countries do

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Improving the MOT Delivery System

- Improve quality of service to the customer
- Garage investment in equipment
- Improving disciplinary system for testing stations and testers
- Developing the approval process for stations and testers – include customer service, value for money and other service offerings
- Develop the approval system and training for testers
- Publish more data – allow consumers to identify a ‘good’ garage
- Encourage more motorists to get any their MOTs on time – currently 30% are late
- Tougher penalties for using a vehicle without a valid MOT
- Review the Test fees to allow for garages to invest

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Flexible Working

Flexible Working – What is it

What is Flexible Working

- Relates to:
  - Part-time
  - Term time
  - Flexi-time
  - Compressed hours
  - Adjusted start and finish times
  - Location
- Regular or ad-hoc
- Statutory or non-statutory

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Flexible Working - Overview

- 2/3 of employers offer flexible working
- 88% workers see it as a benefit
- Choice of location important but not necessarily home working
- 44% of flexible working is informal
- CIPD research suggests in 2022
  - 6% workers changed job due to lack of flexibility
  - 12% left business sector or profession for the same reason
- Seen as a recruitment and retention tool
- Government see flexible working as means to get 8.7m inactive people into work

Flexible Working – What has Changed

- **Employment Relations (Flexible Working) Act 2023**
  - Updates the Employment Rights Act 1996
  - Gives employees further new right to ask for Flexible Working
  - Government assent on 20 July
  - Implementation Date Spring 2024

Concept not new – Act just expands Statutory Rights

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Flexible Working – New Rights

- Right to Request flexible working from Day 1
- Make new requests up to twice a year
- No-longer need for employee to explain potential impact or its mitigation
- Employer decision within 2 months
- Employee right to appeal

- ACAS to develop a statuary code
- Government Call for Evidence

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Flexible Working - Requests

- **Should be in writing**
- **Request should include**
  - Date of request
  - State it is a statutory request
  - Details of requested change
  - Date the employee wants changes made
  - Date of any previous requests
- **Should only be one live request at any one time**
- **Max 2 requests per annum**
- **Employer response in writing,**
  - giving any reason for rejection
  - how to appeal

Flexible Working - Requests

Employer should:-

- Accept request unless there is a genuine business reason not to
  - Additional cost burden on the company
  - Inability to reorganise other staff
  - Inability to recruit additional staff
  - Detrimental impact on quality
  - Detrimental impact on performance
  - Detrimental impact on customers
  - Insufficient work available at revised times
  - Planned structural change within the business
- Consult with an employee before making a decision
- Look for a compromise if the original request is impractical.

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Block Exemption

Block Exemption – What is it

Block Exemption (BER)is a EU Regulation

- 2 Block Exemptions - Vertical Agreements and Motor Vehicle
- Transferred to UK law post BREXIT
- Expired 31 May 22 and 31 May 23 respectively

BER allows certain agreements and practices to be excluded from the Competition Act 1988

- Providing meet certain conditions
- Provides a benefit to the market

- Competition and Markets Authority (CMA) consulted on replacements
  - Vertical Agreements Block Exemption Order - VABEO
  - Motor Vehicle Block Exemption Order - MVBEO

Block Exemption - VABEO

Vertical Agreements Block Exemption Order

- New UK law – replaces EU VABER
- EU BER renewed and remains for Europe
- Came into force 1 June 2022 – with 1 year transition
- Expires 31 May 2028
- Slight changed but broadly similar to the EU regulation
- Reflects more recent significant market change
- Supported by CMA guidance

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Block Exemption - VABEO

What's Changed

- More opportunity to treat on-line and offline sales differently
  - Differential pricing
  - Able to have different criteria for on and off-line distributors
- More flexibility in the design of distribution channels
  - Combination of selective and exclusive channels in same or different geographic area
  - Exclusivity can be shared in a geographic area
  - Greater protection for members of a selective distribution system from non-authorised distributors
- Stricter rules so some distributors not given more favoured terms (most favoured nation clause)
- Dual distribution channels will be more widely allowed
- Greater powers for the CMA to ask for data
- Potential for an Industry Code

Block Exemption - MVBEO

Motor Vehicle Block Exemption Order

- CMA believe automotive aftermarket needs its own framework
- New UK law – replaces EU MVBER
- Came into force 1 May 2023 – with 1 year transition
- Expires 31 May 2029
- Reflect technological advances
- Focuses purely on aftersales
- Supported by CMA guidance

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Block Exemption - MVBEO

What's Changed

- Wider scope
  - 'Automotive goods' rather then 'spare parts'
    - Reflects technological change
  - Includes fluids and software, not just parts
  - Ensures access to information for aftermarket suppliers
- Enshrines Independents ability to provide aftermarket services
  - Parts – matching quality
  - Technical data
  - Tools
  - Warranty
  - Authorised Repairer network
- Greater powers for the CMA to ask for data – similar to VABEO

New Block Exemptions- Impact

Block Exemption not the only reason for change

- Electric Vehicles
- Multi-channel retailing
- Dealer consolidation and buy-outs
- Consumer behaviour
- Manufacturer economics
- Wider economic issues
- Covid

Much of the change happening already

- BE changed because the market has changed

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Block Exemption and Agency

Agency Agreement

An agency agreement is a legally binding contract between a person or organisation (Principal) and another person or organisation (the agent) where the former allows the later to act on their behalf

Agency agreements only fall outside Block Exemption if meet certain risk criteria

E.g. owns the stock or incurs stocking costs, bears responsibility for non-performance, makes market specific investments

Franchise Agreement

A franchise agreement is a contract between a franchisor and a franchisee that outlines the terms and conditions for running a franchise

Block Exemption – Current Market Landscape

- **Picture still very mixed**
  - Agency model
  - Franchise model
  - Hybrid
  - On-line v Bricks and Mortar
  - Consolidation and takeovers
  - Dealer/Manufacturer relationship

- Too early to see full impact of new VABEO and MVBEO

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Questions

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