Taxation of road fuels: policy following the 'fuel crisis' (2000-2008)

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Between January 1999 and July 2000 the typical price of a litre of unleaded petrol in the UK rose from 62.9 pence to 84.7 pence – a rise of 21.8 pence or 35%. The rise in petrol prices reflected a combination of increases in excise duty in the March 1999 and March 2000 Budgets and higher world prices for crude oil. In December 1998 the price of crude oil reached a low point of just under US$10 per barrel. Fourteen months later, in February 2000, it averaged nearly US$28 per barrel. On some days in June 2000, the spot price in London exceeded US$30 per barrel.

Complaints from private motorists and hauliers about this trend culminated in a public campaign in summer 2000 that drivers should boycott petrol stations. Despite the patchy response to this campaign, panic buying and blockades of refineries caused widespread shortages across the country by mid-September. In his November 2000 Pre-Budget Statement, the then Chancellor Gordon Brown announced that duty rates on all fuels would be frozen initially up to April 2002.[1] He went on to propose cutting duty rates on both ultra low sulphur petrol and ultra low sulphur diesel in the March 2001 Budget – by 2 pence and 3 pence a litre respectively – changes he confirmed in his Budget speech on 7 March 2001.[2]

In the years since the fuel crisis – up until the 2009 Budget – the Labour Government either froze the main duty rates on road fuels, or increased these rates in line with inflation only.

This note examines the chronology of the 'fuel crisis' and the Labour Government's subsequent approach to taxing road fuel.

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1 HC Deb 8 November 2000 cc 321-2
2 HC Deb 7 March 2001 c303

A. The development of the fuel crisis

During the eighteen month period between January 1999 and July 2000, petrol and diesel prices in the UK rose strongly.[3] Many motorists and hauliers blamed this trend on the increases in duty rates introduced by both the Conservative Government and its Labour successor, with the introduction of the road fuel escalator in the March 1993 Budget.[4] A number of factors appear to have contributed to the volatility of oil prices during this time, seen not just in this country but across the developed world. In an analysis of the market in September 2000, the *Economist* suggested that the main drivers behind this lack of price stability were the inefficient operation of the OPEC cartel, matched with certain other wider changes in the industry as a whole (such as consolidation in the oil-storage and tanker-shipping businesses, and the use of just-in-time management practices by the major oil companies of their stocks and deliveries). Added to this was the continued reliance on the transport sector on the supply of oil:

> The most powerful force fuelling oil's volatility … is the black stuff's paramount importance in transport. During earlier shocks, developed economies were grossly inefficient in their use of oil; since then, governments have used such tools as energy taxes to make their economies more efficient and less reliant on oil. They have largely succeeded, except in transport -- where, despite soaring petrol taxes, oil remains king because the alternatives are expensive and impractical. Most of OPEC's oil now goes to a sector that cannot at present live without it.

Nevertheless high and rising taxes across all European countries had clearly contributed to the general level of petrol and diesel prices, and in addition, provided protestors with a suitable focus for their campaigns:

> The culprit [for recent oil price rises] that the protesters have latched on to, fuel taxation, is undoubtedly the easiest target. After all, well over half of what most European consumers pay at the pump goes to their governments, not to oil firms or to OPEC; in Britain, four-fifths goes as tax. Even more irksome, no doubt, is the fact that petrol taxes in Europe are far higher than in America.[5]

The trend of rising oil prices led the then Chancellor, Gordon Brown, to announce that duties would be frozen in real terms in his March 2000 Budget:

> I said last November that I would, in future, make an annual Budget decision on one matter: real-terms rises in road fuel duties--the money to go to a new ring-fenced fund for roads and public transport. Since the pre-Budget report, world oil prices have risen rapidly from $23 to $30 a barrel. So, in this Budget I have decided that, beyond the automatic inflation rise of 2p a litre, there will be no real-terms rise in road fuel duties.[6]

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3 For more data on price movements at this time see, *Road fuel prices and taxation*, Library Research paper 01/52, 11 May 2001

4 For more details see, *Taxation of road fuels: the road fuel escalator (1993-2000)*, Library standard note 3015, 21 January 2011.

5 "Oil's taxing times", *Economist*, 16 September 2000

6 HC Deb 21 March 2000 c 868

Petrol and diesel prices continued to rise after the Budget, and a surprisingly successful public campaign soon developed for cuts in duty rates, garnering support from both businesses and individual motorists. The *Financial Times* reported on the growing public disquiet in early July, encouraged in part by an internet-based campaign run by one group of motorists that drivers should boycott petrol stations on 1 August, and on a weekly basis thereafter, to force the Government's hand (the '*Dump-the-Pump*' campaign):

> Ministers hope countries belonging to Opec, the oil producers' association, will eventually raise output enough to reduce the world price of oil from $30 a barrel to $24 or $25. "Then the pressure would be on the oil companies, if they were not passing on the reductions to motorists," a senior minister said. However, retailers and motoring organisations do not share that optimism. They also dispute ministers' views that the political pressure is less intense than a year ago, when hauliers and the countryside lobby were campaigning against the fuel duty escalator.
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> "The motoring public is absolutely up in arms," said Edmund King, director of the Royal Automobile Club Foundation. …"It's coming from rural and urban areas, from businesses, families and the disabled - across the board. They are arguing that they don't have any choice because they don't have any public transport and need the car." … The controversy gained momentum two weeks ago when two campaigners … launched an internet campaign for a nationwide boycott of garages, planned for August 1. Motorists are being asked to refuse to buy petrol or diesel on that day - a Tuesday - and to do so again every Monday until prices and taxes come down. The Daily Mail, the Star and the Sun launched campaigns. The Mail is supplying car stickers depicting the chancellor as a highway robber. The Sun's call is to "Get it down, Brown".[7]

In the event the response from drivers to this was patchy,[8] but panic buying and blockades organised by hauliers of refineries caused widespread shortages across the country by mid-September. Some impression of the severity of these shortages may be gauged by the *Guardian's* report in early September:

> With six out of nine of Britain's oil refineries disrupted, and more than a quarter of petrol stations running out of fuel, oil companies said the position was becoming critical - with the north-west of England, and south Wales particularly badly hit. No filling stations in Cardiff appear to be open. While ministers rejected calls from leaders of petrol retailers for a reduction in fuel duty, oil companies privately made clear that the government, not the industry, should sort out the crisis because of the huge bonus the Treasury had received in North Sea taxation from the current 10-year high in oil prices. Roy Holloway, director of the Petrol Retailers' Association, warned last night that the government's hard line is playing into the hands of the protesters. "It is in danger of get ting the motorist to fall in behind the protesters," he said. "I think politicians saying they are not going to do anything about the problem is very likely to swing public opinion firmly behind the protests." He added: "The industry was not prepared for this crisis and certain measures are not in place".[9]

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7 "Motorists driven to despair over petrol price rises", *Financial Times*, 4 July 2000

8 "Business as usual for petrol stations as motorists dump the pump protest", *Financial Times*, 2 August 2000

9 "Panic as oil blockade bites", *Guardian*, 12 September 2000

The sense of crisis was heightened by reports of similar protests occurring in several other European countries – including France, Germany, Belgium and the Netherlands.[10]
In a briefing paper on the fuel crisis, the Institute for Fiscal Studies noted that road fuel tax presented such an attractive means of raising revenue for the Exchequer because duty rate increases had *relatively little* impact on the amount of miles driven by motorists and hauliers:

> There are two purposes of a road fuel tax in the UK. The first is an attempt to change behaviour and reduce the amount that people use their cars in order to protect the environment, and the other is to raise revenue.
>
> When an individual makes decisions regarding vehicle ownership and usage, they will typically take into account those costs that are purely private, such as the price of the car, insurance and petrol prices, but they might not to take into account any of the additional costs which are not directly charged for. There are a number of ways in which road transport imposes additional or social costs on others. Social costs could include air and noise pollution, congestion and road damage. Attempting to reduce the consumption of road fuel and the amount of car usage is one way to try to restrict the amount of damage done to the environment. Imposing an additional tax on road fuel in the form of a fixed amount per unit of fuel consumed (a specific tax) attempts to raise the price the consumer pays to the level that more accurately reflects these additional social costs.
>
> The question remains, 'to what extent will households alter their behaviour (drive their cars less, switch to more efficient cars) in the face of higher prices?'. The relationship we are interested in is that between miles driven and the cost of those miles, since it is by altering the cost per mile that taxes on road fuels will influence behaviour. Evidence suggests in fact that a one per cent increase in the real cost per mile of driving will reduce miles travelled by less than half of one per cent (in the short term). This is not a very large response, which suggests that any attempt to reduce reliance on the car by increasing the cost of fuel will not have been very successful.
>
> This is not to say that the high rate of duty has not had any effect on the behaviour of motorists. For example, people may have switched to buying more fuel-efficient cars, which helps to reduce the harmful effect on the environment. The fact that there is some response to increases in price, even though it is small, does imply that there will have been some reduction in miles driven, especially with such a high tax on petrol, but it is impossible to tell whether the price of petrol now adequately reflects the social costs of road transport.
>
> Even if people did respond to price increases by reducing car use, the fact that some aspects of pollution from road transport (such as congestion or soot) are only loosely linked to the level of fuel used means that the policy is not very well targeted to protect the environment. One source of pollution – carbon dioxide emission – is closely related to fuel consumption, and the global warming effects of carbon dioxide depend linearly on emissions, so for this particular pollutant a fuel tax may be appropriate, but this is not generally true. Levels of congestion, for example, vary by time of day and location. Similarly, the harmful effects of some pollutants such as black smoke (which appear to contribute significantly to respiratory disorders) depend

[10] "Governments in EU balk at French-style tax breaks on fuel", *Financial Times*, 12 September 2000; "A French pox on them", *Economist*, 16 September 2000

on when and where they are emitted – for example, the harmful effect can be greater in highly populated areas.

> So attempting to reduce the social costs associated with road transport by imposing an additional tax on road fuel consumption is difficult because of the lack of response to changes in the price of petrol and because fuel cost is not always very closely related to the social cost involved. In fact, it is the lack of response by motorists to increases in the price of fuel that makes a fuel tax a very attractive source of revenue for the government. If people do not cut back the amount of fuel they buy after a tax increase, large amounts of money can be easily raised. In 1999/2000, fuel duties (excluding VAT) raised £22.3 billion, which represented 6 per cent of total government revenue.[11] Six pence on all road fuel duties raises as much money as one penny on the basic rate of income tax.[12,13]

The IFS also noted that "since Labour came to office in May 1997, there has been a 37 per cent increase in the price of leaded petrol/LRP and 20 percentage points have been due to tax.[14] In the case of unleaded petrol, the increase has been 42 per cent and 26 percentage points have been due to tax."[15] Taking up this point Martin Wolf, writing in the *Financial Times*, went on to comment, "there are excellent environmental and fiscal reasons for persisting with high taxes on petrol", and that farmers in particular already received considerable relief for fuel costs in the form of red diesel.[16]

For its part the *Financial Times* made a trenchant case against any fuel duty cuts:

> With astonishing arrogance, the self-appointed representatives of road hauliers and farmers gave the government a choice: either cut fuel duties or face further blockades and economic chaos. The deadline is November 13, five days after Gordon Brown delivers his pre-Budget report to parliament. The protesters will plainly find it more difficult to halt fuel supplies this time because the government, the police and oil companies are better prepared. But quick success against threatened disruption is not guaranteed. So Mr Brown must now focus on two principles, one political and one economic.
>
> First, the government must not give in to the demands of special interest groups seeking to hold the country to ransom. Second, any changes to motoring taxation must be made within a context of rational tax, energy and environmental policies. Guided by these principles, there should be no question of reducing fuel duties on Wednesday. Politically, it would legitimise the protests, which obstruct the lawful activities of other citizens. It would encourage Opec to raise oil prices further, because oil-importing countries would show they are willing to offset the impact of price rises. And it might not even stop the protests. A small reduction in petrol duties would be derided.

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[11] HM Treasury, *Prudent for a Purpose: Working for a Stronger and Fairer Britain*, HC 346, March 2000.
[12] HM Treasury, *Treasury Ready Reckoner*, November 1999
[13] Zoe Smith, *The petrol tax debate: briefing note no.8*, IFS July 2000 pp 4-5. This is available on the IFS' site at: http://www.ifs.org.uk/publications.php?publication_id=1725
[14] This is comparing the price of leaded petrol in May 1997 with the price of LRP in July 2000.
[15] *The petrol tax debate*, IFS July 2000 p1
[16] "A choice of unpopularity or appeasement", *Financial Times*, 18 September 2000

There is also little economic case for a reduction in fuel duty. Fuel taxes reduce carbon dioxide emissions in two ways: they have a short-term impact on the number of miles driven and, in the longer term, they encourage more fuel efficient vehicles. Cutting fuel duty to help vulnerable groups would be ill-targeted and ineffective. Farmers already receive a 93 per cent rebate for tractor fuel. Road hauliers operate in a competitive industry suffering from over-capacity. Cost savings from lower taxes would be passed on to customers. And the poorest people in rural areas do not own cars. Most other possible options, such as tinkering with vehicle excise duty, suffer from much the same problems and risk being seen as political tokenism.

Mr Brown's task in the pre-Budget report is, therefore, to start the process of rationalising energy taxes. At present they are a mess. In a more coherent system, various taxes would be rebalanced. It makes little sense, for example, to tax carbon dioxide emissions produced by cars and lorries (about 25 per cent of the total) more heavily than emissions created from energy used in the home or in industry. If Mr Brown grasped this nettle, there would be a case for reducing the burden on motorists in the future. Until then, the government should tough it out.[17]

B. Red diesel

The reference to 'red diesel' made in Martin Wolf's piece for the *Financial Times* is worth explaining. Diesel for agricultural use or other off-road use is subject to a substantially rebated rate of duty (the technical term for this product is gas oil). When delivered from an oil warehouse normal 'white' diesel must have a red dye added to it, along with a chemical marker, before it can be sold as red diesel, so that its use can be detected. Red diesel can only be used in vehicles which are not generally used on the road, such as tractors, mowing machines and mobile cranes, as well as unlicensed vehicles not used on public roads. At the time of the fuel crisis, duty on red diesel was charged at 3.13 pence, compared with the rate on ultra low sulphur diesel of 48.82 pence.

A written answer in the Lords given in October 2001 underlines the long-standing nature of this duty relief. It also describes the scope of this relief, and gave an estimate of its cost:

Lord Donoughue asked Her Majesty's Government: What is the percentage reduction of tax levied on the category of diesel fuel known as red diesel; when this privilege was introduced; which classes of users benefit from this reduction; how much was the cost to the taxpayer of this concession in the last full tax year; and how much was the financial benefit of the concession to the farming industry in (a) the last tax year and (b) the total benefit over the last ten tax years.

Lord McIntosh of Haringey: Red diesel is gas oil which has been marked with a red dye and a tracer chemical making it eligible for a rebated rate of excise duty. The effective duty rate is currently 3.13p per litre. This is around 93 per cent lower than the ultra-low sulphur diesel rate of 45.82p per litre.

The concept of rebated duty on heavy oil was first introduced in 1928. The system of marking gas oil that was eligible for a rebate was introduced in 1961.

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[17] "Editorial: leave fuel taxes alone", *Financial Times*, 2 November 2000

> Red diesel may be used as fuel not only for certain agricultural vehicles but also for other off-road vehicles and in some commercial central heating systems. Under the Hydrocarbon Oil Duties Act 1979 it must not be used as fuel for road vehicles. Schedule 1 to that Act (excepted vehicles) categorises the types of vehicles which are not considered to be road vehicles and which can, therefore, use red diesel as a fuel when travelling on the public road in the circumstances set out in the schedule. The intention of Schedule 1 is to limit the use of red diesel to vehicles that only use the public road on very limited occasions.
>
> Quantities of red diesel released for consumption in 2000-01 are provisionally estimated at 6,879 million litres. Assuming this level of consumption, application of the ultra-low sulphur diesel rate would have raised additional revenue of around £3 billion. In practice, the cost would be considerably less than this because an increase in the duty rate would reduce the demand for red diesel. Customs data on payments of duty on red diesel do not indicate the end-use. Therefore no estimate has been made of the financial benefit to the farming industry.[18]

At the time of the petrol crisis there was some comment that many farmers were participating in the protests, despite the considerable value of this duty relief:

> For more than 200,000 privileged people in Britain, cheap fuel is constantly on tap. Ironically farmers, the driving force behind many blockades and pickets, benefit from a huge diesel subsidy, which rarely attracts attention. The £250m-a-year hand-out ensures that the fuel used to power tractors and other vehicles on the land - but not officially on the open road - comes at a third of the cost of the diesel on the filling station forecourt.
>
> Red diesel - so called because it is tinged red - is delivered straight to the farm and attracts excise duty of only 3.13p a litre. This means it currently sells at around 23.9p a litre. The government slaps duty of 48.82p on conventional diesel, often pumping up its price to more than 80p a litre. Customs and Excise, which oversees red diesel distribution and use, accepts that the cost difference is, in effect, a subsidy.
>
> Introduced after 1945 to bolster food production, red diesel is now seen by some agricultural economists as an anomaly difficult to justify. "It is a mystery to me why farmers are protesting about the government's approach to fuel duty when agriculture gets such special treatment," said Neil Ward, senior lecturer in geography at Newcastle University, who helped produce a cabinet office report last year on rural economics.[19]

C. The introduction of ultra low sulphur diesel

In the March 2000 Budget, the Government had announced a new duty rate on ultra low sulphur petrol – then a relatively new fuel which delivered similar environmental benefits to ultra low sulphur diesel – itself the beneficiary of a lower duty rate introduced in August 1997. As it turned out, this paved the way for its response to the fuel crisis. The *Budget 2000* report gives a short introduction to this issue:

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18 HL Deb 31 October 2001 c162WA. Further guidance is given in, HM Revenue & Customs, *Notice 75: Fuel for road vehicles*, September 2010.

19 "Farmers already get subsidy", *Guardian*, 13 September 2000

The transport sector remains a major cause of poor air quality although improvements in fuel quality and vehicle emission technology have led to a 50 per cent fall in transport related emissions over the last decade. The Government has played an important part in encouraging these changes through setting duty differentials to encourage the manufacture and take up of cleaner fuels.

A favourable differential for unleaded petrol since 1987 has significantly reduced the use of leaded petrol - which was the major source of lead in the atmosphere - over the last decade. The success of this policy helped facilitate the phasing out of leaded petrol on 1 January 2000, in line with EU directives. As a result of these measures, lead emissions from traffic have been cut to almost zero, with older cars which are unable to use unleaded petrol switching to lead replacement petrol ...

The Government has taken steps to encourage the manufacture and use of Ultra-Low Sulphur Diesel (ULSD) which reduces particulate emissions from existing diesel vehicles and allows the introduction of the latest diesel after-treatment devices, such as particulate traps. A 1 pence per litre duty differential in favour of ULSD was introduced in 1997. This was increased to 2 pence per litre in Budget 98 and 3 pence per litre in Budget 99. This policy has led to almost the entire diesel market converting to ULSD, way ahead of most other European countries.

The use of duty incentives to move the diesel and petrol markets to ULSD and unleaded petrol can be counted as major successes in achieving better local air quality. A similar opportunity now exists for Ultra-Low Sulphur Petrol (ULSP). This reduces emissions compared to ordinary petrol and enables the introduction of cleaner vehicle technologies. The Government therefore intends to introduce a differential of 1 pence per litre in favour of ULSP relative to unleaded petrol from October 2000.[20]

The environmental benefits of ULSD were set out in a written answer in November 2000:

Mr. Webb: To ask the Secretary of State for the Environment, Transport and the Regions if he will make a statement on the environmental effects of the large scale production of ultra-low sulphur petrol.

Mr. Hill: Ultra-low sulphur petrol will have a direct benefit in reducing traffic related air pollutants. It will also facilitate the introduction of new fuel-efficient petrol engine technology. This emerging technology holds the promise of significant reductions in CO2 emissions from the vehicle fleet and will help ensure delivery of the voluntary agreements with the car manufacturers to improve new car fuel efficiency by 25 per cent. by 2008.

The reduction of sulphur content of petrol from a maximum of 150 ppm to 50 ppm may result in increased energy consumption in oil refineries and hence CO2 emissions, due to the additional processing required. The extent to which this is the case is dependent on the configuration of each individual refinery, and on other factors such as processing lower sulphur crude. The overall effect is, in the short term, likely to be an increase of less than 2 per cent. in the CO2 emissions from refineries.

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[20] HC 346 March 2000 pp 115-6

Ultra-low sulphur petrol will become mandatory throughout the EU from 2005 and the Government's CO2 emission projections for 2010 already reflect the impact on refinery emissions of a reduction of sulphur levels in petrol. As more vehicles are introduced onto the market, fuel efficiency improvement is expected to be larger than increases in refinery CO2 emissions.[21]

D. The 2000 Pre-Budget Report

In his November 2000 Pre-Budget Statement, the then Chancellor Gordon Brown announced that duty rates on all fuels would be frozen initially up to April 2002:

> Today, like all countries, we are having to deal with the rise in world oil prices from \$11 to \$31. Because the Organisation of Petroleum Exporting Countries itself accepts that the world price is unacceptably high, our international efforts are geared to ensuring that production is raised and prices fall. Therefore, I recognise and understand the very genuine concerns that motorists and hauliers have ...
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> The annual rise in the price of fuel that would be automatically introduced on Budget day would raise £560 million, putting petrol and diesel up by about 1½p a litre. I propose, at that cost of £560 million, a freeze in excise duties--an across-the-board duty freeze on all fuels that would initially last until April 2002, and, if the oil price remains at a high price between now and then, I can tell the House that there would be a duty freeze for a further year.[22]

Mr Brown went on to propose a reduced rate of duty for ULSP, and a corresponding cut in the duty rate for ULSD – as well as the abolition of the higher duty rate on lead replacement petrol:

> On top of the duty freeze that we had budgeted for in our fiscal arithmetic, the first of the proposals I will consult upon would itself involve additional expenditure of as much as £1,000 million and help to promote substantial benefit to the environment. Yesterday, we published a report showing the environmental benefits from the introduction of ultra-low sulphur diesel in reducing local air pollution. As a result of cuts we made in excise duty on ultra-low sulphur diesel, usage of that fuel has risen in Britain from 20 per cent. in 1997 to 40 per cent. in 1998 to 100 per cent. in 2000. It requires no change to be made in lorry and van engines. It now accounts for virtually 100 per cent. of the market for diesel in Britain today, and Britain is now leading in this cleaner diesel fuel.
>
> We now need to build on that environmental achievement. The widespread use of ultra-low sulphur petrol would further and significantly improve local air quality. Crucially, it would require no change to existing car engines. It is now time to make this cleaner fuel available in every petrol station in the United Kingdom and to make the use of this fuel, which requires no change in any car, cheaper for everyone. To do so I propose to cut the excise duty for ultra-low sulphur petrol so that it replaces unleaded petrol in every petrol station and at a lower excise duty. On 1 October, we reduced the duty on ultra-low sulphur petrol by 1p a litre.

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[21] HC Deb 15 November 2000 cc 658-9W. Further details on the success of ULSD were published in a report at this time (HM Customs & Excise, *Using the tax system to encourage cleaner fuels: the experience of Ultra-Low Sulphur Diesel*, November 2000.)

[22] HC Deb 8 November 2000 cc 321-2

> I propose from Budget 2001 a further reduction of 2p a litre--making a cut of 3p in total on all ultra-low sulphur petrol. Because it is right to maintain the proper balance between petrol and diesel, I propose also from Budget day to match the cut in ultra-low sulphur petrol with a 3p cut in excise duties on ultra-low sulphur diesel, which will go to all diesel users. I expect ultra-low sulphur petrol and diesel to account for 100 per cent. of the market next year. When the excise duty cut is introduced at Budget time, motorists using any petrol station in Britain should be able to benefit from this duty cut.
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> It is by giving this incentive for cleaner fuels that we can both advance our environmental principles and ensure--with the 3p cut per litre in all ultra-low sulphur duty--a cheaper cleaner fuel available in every garage, a better deal for drivers and cleaner air across Britain. I can also announce that for all cars that still use lead replacement petrol--where there is no longer an environmental case for a higher duty rate--I propose from Budget day to end the differential and cut the excise duty by 2p a litre.[23]

Mr Brown also announced a series of measures to help both the haulage industry and the farming sector, as well as motorists generally – through financial aid for restructuring, the introduction of a vignette system (whereby non-British haulage companies would pay a fee for using British roads) and reforms in VED for both lorries and cars. Details were published in the *Pre-Budget Report*.[24]

For some weeks before his announcement, it appeared that public concern about the tactics used by some protestors, and the impact of fuel shortages on the country, had undermined support for the blockade campaign. The *Financial Times* suggested that the reductions in duty announced by the Chancellor were larger than expected, and that as a result, the Government had "succeeded in dividing fuel tax protestors and heading off renewed protests on the scale of those that threatened to bring the country to a halt in September."[25] Nonetheless, there was some concern about the availability of ULSP, and the extent to which all motorists would be in a position to benefit from the proposed cut in duty. The share of total petrol supplies taken by ULSP rose strongly, from about a third in November 2000 to just under half by mid-January 2001,[26] and in February the Government reported further progress in its growing distribution:

> **Mr. Russell Brown:** To ask the Chancellor of the Exchequer what progress is being made on the introduction of ultra-low sulphur petrol in the United Kingdom
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> **Mr. Timms:** The Chancellor of the Exchequer announced in the pre-Budget report in November that the Government would reduce duty on ultra-low sulphur petrol (ULSP) on Budget day this year, in recognition of its environmental benefits, subject to consultation and it being widely available.

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23 *op.cit.* cc 322-3

24 Cm 4917 November 2000 pp 125-132. In July 2005 the Labour Government announced that it was *not* going to proceed with a vignette system, though the current Coalition Government are re-examining the idea; for details see, *Roads: lorry road user charging*, Library standard note SN/BT/588, 6 September 2010.

25 "Chancellor offers fuel protestors bigger than expected tax cuts", 9 November 2000

26 HC Deb 16 November 2000 c 718W; HC Deb 26 February 2001 cc 510-1W

The Minister for Transport and I met the major oil companies on 21 February to discuss this issue. On the basis of that meeting, I am glad to say that we believe that the oil companies are on track to meet their target to supply ULSP nationwide at their retail sites by the end of March. The Minister for Transport and I also met representatives of independent petrol retailers on 21 February. They operate over 5,000 retail sites across the country. Many are small businesses, often playing a vital role supplying rural and urban communities.

Although some independents are already supplying up to 50 per cent. ULSP, their representatives indicated that they anticipate that it could take independent retailers longer to complete the nationwide transition to ULSP than for the major oil companies, because of constraints on the capacity of UK oil refineries. The independent retailers could move faster by increasing imports, but this might cause uncertainty in the wholesale and retail markets and would not necessarily be to the benefit of motorists. The Government's objectives are to ensure that everyone should be able to share the environmental benefits of ULSP, and the benefits of the duty cut associated with it. It is in the whole country's interests that these objectives are achieved, and achieved as smoothly as possible.

Any decisions on actual duty rates will be taken and announced by the Chancellor in the Budget itself but, as a sensible measure that will be supported by independent petrol retailers to guarantee that all motorists would benefit from a cut in duty on Budget day, I can announce that the Government intend to match any reduction in duty on ULSP that is announced in the Budget with a reduction in duty on unleaded petrol for a temporary period until 14 June 2001. This will ensure that the introduction of ULSP across the country will happen in the smoothest way, and that car-drivers--especially in rural areas supplied by independent petrol retailers--will be able to benefit from any duty cut that is announced in the Budget for ULSP. We want to match nationwide availability at the major oil companies with all motorists benefiting from any duty cut at independent stations too. In this way we best achieve our aims set out in November--first, that the long-term benefits to the environment are achieved; second, that motorists would be able to benefit from a cut in petrol duty on Budget day; and third, that the benefit would go to all motorists in all areas.[27]

There were also concerns that any duty cuts would not be reflected in pump prices – either through the supposed rapacity of oil companies, or the lack of pricing flexibility afforded them, given so large a proportion of the final price represented tax,[28] - an issue raised in two PQs shown below:

Mr. Jenkin: To ask the Chancellor of the Exchequer what assessment he has made of the factors affecting the price charged by oil companies for (a) ultra low sulphur diesel and (b) unleaded petrol.

Mr. Timms: The price charged by oil companies reflects the influence of a number of variable commercial and economic factors, including production and distribution costs, supply and demand on world oil markets, conversion rates against the US dollar, and taxation. The Government do not intervene in commercial price-setting.

[27] HC Deb 26 February 2001 cc 511-2W
[28] "Forecourt prices continue to inflame debate over taxes and profit margins", *Financial Times*, 6 January 2001

> **Mr. Jenkin:** To ask the Chancellor of the Exchequer what measures he has put in place to ensure that fuel duty reductions on ultra low sulphur petrol, announced in the pre-Budget Statement, will be passed on to motorists.
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> **Mr. Timms:** The Government do not intervene in commercial price-setting. The United Kingdom Petroleum Industry Association (UKPIA) has stated that it anticipates that the 2 pence per litre duty cut will be passed on to the consumer.[29]

In his March 2001 Budget speech on 7 March, the Chancellor confirmed the changes in VED proposed in his Pre-Budget Statement, as well as the two reductions in the duty rates for both ULSP and ULSD:

> In addition to the 1p cut in ultra-low sulphur petrol duty last October, the duty on ultra-low sulphur petrol will be further cut by 2p a litre. To make sure all motorists can benefit from this 2p cut, I will extend it to unleaded petrol until 14 June, by which time the industry says ultra-low sulphur petrol will be 100 per cent. available. The 2p cut for both ultra-low sulphur petrol and unleaded petrol will take effect at 6 pm this evening. Lead replacement petrol duty will also be cut--by a further 2p per litre. And because it is right to maintain the proper balance in the tax treatment of petrol and diesel, I propose to match the cut in low sulphur petrol with a cut in excise duties in ultra-low sulphur diesel for all diesel users of 3p a litre, to take effect from 6 pm this evening as well.
>
> The pre-Budget report launched the green fuel challenge. Industry was invited to submit plans for new, more environmentally friendly fuels. I can announce that duty will be cut radically on alternative fuels--a further 6p per kilogram duty cut on road fuel gases with effect from 6 pm tonight, and from next April, a 20 per cent. duty cut on bio-diesel. To allow the new industry to plan ahead, duty on road fuel gases will be frozen in real terms until 2004.[30]

Responses to the Chancellor's statement were mixed, as environmental campaigners have attacked duty cuts as being contrary to the Government's environmental principles,[31] whereas haulage and motorist organisations criticised them as being insufficient.[32]

E. Taxing road fuels after the crisis

1. Freezing rates, postponing rises (2003-2007)

In Budget 2003 an increase in duty rates in line with inflation was proposed,[33] though it was delayed until 1 October 2003 to take account of the then "recent high and volatile level of oil prices as a result of military conflict in Iraq."[34] Concern at high and volatile oil prices resulted

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29 HC Deb 30 January 2001 cc 143-4W

30 HC Deb 7 March 2001 cc 303-4

31 "Campaigners say lower fuel duty goes against promise to adopt 'green' agenda", *Financial Times*, 8 March 2001

32 "Mixed response to fuel duty cuts", *Financial Times*, 8 March 2001

33 HM Customs & Excise Budget Notice CE31, 9 April 2003

34 *Budget 2003* HC 500 April 2003 p 159

in the main duty rates being frozen in 2004 and 2005.[35] In Budget 2006 Budget it was announced that duty rates would rise in line with inflation from 1 September 2006,[36] though in the event, this increase was postponed three months, taking effect on 6 December.[37] In the 2007 Budget the Labour Government changed its approach, and announced duty rates for the next three years:

> It is the Government's policy that fuel duty rates should rise each year at least in line with inflation as the UK seeks to reduce polluting emissions and fund public services. Budget 2007 sets out fuel duty rates for the next three years. Main fuel duty rates for 2007-8 will increase by 2 pence per litre (ppl), with these changes in rates deferred until 1 October 2007. Main fuel duty rates will then rise by 2ppl on 1 April 2008 and 1.84ppl on 1 April 2009. By 2009-10, main fuel duty rates will still remain 11 per cent lower in real terms than they were in 1999.[38]

When this provision was scrutinised at the Committee stage of the Finance Bill, the then Financial Secretary, John Healey, said a little about this change in tack: "It is the Government's policy that, in general, fuel duty rates should rise each year at least in line with inflation, and Budget 2007 set out fuel duty rates for the next three years, first for environmental reasons; secondly, to ensure funding for public services; and thirdly to provide greater certainty, alongside other tax reforms that were in the Budget. Increases in 2008 and 2009 will be provided for in subsequent Finance Bills." He went on to note that it was expected that this would result in relatively small increases in duty rates in real terms:

> We discussed this morning the basis of the Government's forecasting in tax terms, and that element of the Red Book is the quarter three RPI figure for this year, which is 3.38 per cent. So the rises of 2p per litre this year, 2p per litre next year and 1.84p per litre the year after represent respective increases of just over 4 per cent., just under 4 per cent., and about 3.5 per cent … [so] we are … looking at three years of fuel duty rises that have a real rise element to them. We have been clear from the start that the resources that these will help to raise will help contribute to the Government's spending on our priority areas, such as transport and environmental protection.[39]

The Budget report estimated that these changes would cost the Exchequer £380 million in 2007-08, but then raise £490 million in 2008-09, rising to £660 million in 2009-10.[40]

At this time neither the Conservatives nor the Liberal Democrats called for the escalator to be re-introduced. Spokespersons for both parties supported the Government's duty rate changes in the 2007 Budget, during the debate on this provision in Public Bill Committee. For the Conservatives, Paul Goodman said:

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[35] In both years, the Government had first proposed in the Budget that duty rates would rise in line with inflation in September, but then reversed this decision (Cm 6408 December 2004 para 7.32; Cm 6701 December 2005 paras 7.47-8)

[36] HC Deb 22 March 2006 c 295. Provision to this effect was made by section 7 of the *Finance Act 2006*.

[37] HC Deb 19 July 2006 521-2W; HC Deb 6 December 2006 c 310; HM Revenue & Customs, *Pre-Budget Report note PBRN20*, 6 December 2006.

[38] HC 342 March 2007 paras 7.36, 5.134

[39] PBC Deb (Bill 86) 10 May 2007 c91, cc93-4

[40] HC 342 March 2007 p 209

> [In setting duty rates] the Government certainly have to reconcile what the Financial Secretary would call "complex interactions"—the phrase he used about tobacco duties in relation to fuel duties. They have a target of ensuring that 5 per cent. of all transport fuels should be renewable by 2010-11. They have to take into consideration not only the requirement to hit that target, but the competitive position of industry, the effect on agriculture and farming, the consequences for consumers and the effect on the balance between public and private transport. All the while, I am sure there is in the Financial Secretary's mind the memory of the events of 2000. Those are not very easy pressures to reconcile and we shall not oppose the changes.[41]

For the Liberal Democrats, Julia Goldsworthy said:

> We welcome the changes outlined in the clause, which are proposed to take place in October 2007. Those changes represent indexation, following a freeze of these duties since 2003. What it will mean is that there will be some movement on the take of environmental taxes as a proportion of the total tax take. Therefore, it is an important step in the right direction, and one that we support.[42]

Following this in July 2007 the Liberal Democrats published detailed proposals for tax reform, which recommended substantial reductions in personal tax – including a 4p cut in the basic rate of income tax – "financed by green taxes on pollution and by taxes on the wealthy", including "indexing fuel duty to inflation except in periods of oil price spikes."[43]

In the run up to the 2008 Budget, the strong growth in fuel prices lead to some sectors – particularly the road haulage industry – to lobby for a freeze in duty rates.[44] In their report just before the Budget the Environmental Audit Committee argued that the Chancellor's statement would be "a test of the Treasury's environmental credibility" and the rise in duty rates should go ahead:

> Although the 2007 Budget Report announced that fuel duty would rise by a cumulative total of nearly six pence per litre by April 2009, it followed this by saying: "By 2009-10, main fuel duty rates will still remain 11 per cent lower in real terms than they were in 1999." In this context, we drew the Exchequer Secretary's attention to a recent speech in which she had said: "Tax has a part to play by influencing behaviour and incentivising low carbon technologies, and as the main way of tackling emissions from surface transport."[45] We asked her how, in this case, she could justify cutting fuel duty by so much in real terms over a decade. She responded that:
>
> > As with all these things, it is a question of getting a balance from where we are now, which is not ideal, to where we want to go, namely a future […] where individual cars are a lot less damaging in terms of carbon emissions and people can make other sensible choices about getting round. […] All of this takes time and we have to balance it.
>
> We are concerned by this response, because it suggests a lack of willingness to grasp the problem, in favour of an indefinite postponement of action. The Exchequer

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41 PBC Deb (Bill 86) 10 May 2007 c91
42 PBC Deb (Bill 86) 10 May 2007 c78
43 Liberal Democrats, *Reducing the Burden: Policies for Tax Reform*, 12 July 2007 p 3
44 For example, "Businesses pile on the pressure over fuel duty rise", *Times*, 22 January 2008
45 The Minister is Angela Eagle. Details of this speech are given in, HM Treasury press notice, *Speech by the Exchequer Secretary to the Treasury, Angela Eagle MP, at the International Carbon Markets Conference*, 14 November 2007.

Secretary essentially told us that the Treasury could take only light action to curb demand for petrol and diesel in advance of low carbon alternatives which could fully replace them; but that this would take time, and in the meantime environmental concerns could not be allowed to impede economic growth or individual mobility. We would argue that the development and take-up of low carbon alternatives would be assisted by stronger action to curb demand for fossil fuels today. Furthermore, the Government has already had time to tackle this problem, and yet road traffic emissions in England went up by 12% between 1997 and 2006. Indeed, the 2006 UK Climate Change Programme Review forecast that increased road transport emissions due to traffic growth over the period 1990-2010 would more than outweigh the entire suite of carbon reduction policies aimed at the transport sector.

We note that some motoring organisations have begun calling for the next planned increase in fuel duty to be scrapped, given the rise in petrol prices due to increases in the price of crude oil. We also note, however, that demand for road fuel is still strong in spite of these price rises. Paul Watters, head of roads policy at the AA, has commented: "People appear to be cutting back on other spending, such as car servicing, rather than driving less." The forthcoming Budget is a test of the Treasury's environmental credibility: it must not defer its planned rises in fuel duty.[46]

2. Debate over the 'windfall' of higher oil prices (2008)

In the 2008 Budget the Labour Government confirmed that duty rates would rise by 2p per litre, but that this would be postponed for six months.[47] The cost of deferring the duty rate increase was estimated to be £550 million in 2008-09.[48] The announcement appears to have been welcomed by both hauliers and motorists,[49] though at the time the issue was not discussed at length in the House – certainly compared to the impact of the withdrawal of the 10p starting rate of income tax from April 2008.[50] For motorists, the delay in raising the duty rate was very much overshadowed by the Government's proposals to reform VED – substantially increasing the tax incentives for fuel-efficient vehicles.[51]

The impact of freezing duty rates on motoring and carbon emissions was raised in two linked PQs; an extract is reproduced below:

Angela Eagle: The Government's policy is that fuel duty rates should rise each year at least in line with inflation as the UK seeks to reduce polluting emissions and fund public services. It is estimated that, by April 2008, fuel duty will be about the same in real terms as it was in May 1997. Therefore, fuel duty has not made a substantive impact on the real cost of motoring since 1997.

Budget 2008 confirmed that main road fuel duty rates will rise by 1.84p per litre on 1 April 2009 and announced that they will also rise by 0.5p per litre above indexation on

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46 *Third Report: The 2007 Pre-Budget Report and Comprehensive Spending Review: An environmental analysis*, 5 March 2008 HC 149 2007-08 paras 18-19
47 HC 388 March 2008 para 6.30
48 HC 388 March 2008 p110
49 For example, "Delay to fuel tax clams motorists' concerns", *Financial Times*, 13 March 2008
50 Section 7 of the *Finance Act 2008* provided for the deferred increase in duty rates. Notably this provision was not one of the clauses debated by the Committee of the Whole House on 28 & 29 April 2008.
51 For example, "New taxes on gas-guzzlers will raise an extra £1.2bn", *Guardian*, 13 March 2008. see also, *Vehicle excise duty (VED)*, Library standard note SN/BT/1482, 16 November 2010.

> 1 April 2010. However, consistent with Government's stance of maintaining flexibility in responding to short-term economic conditions, Budget 2008 also announced that the planned 2p per litre increase in fuel duty due to take place on 1 April 2008 would be deferred for six months, until 1 April 2010. The impact of this deferral on the cost of travelling by private car will vary depending on the fuel efficiency of the car chosen, and the number of miles driven. The Government have not estimated the impact of a postponement of an inflation-linked fuel duty increase on the cost of travelling by bus or train in 2008 ...
>
> It is estimated that the three fuel duty increases announced at Budget 2008—for October 2008, April 2009 and April 2010—will lead to a reduction of 0.5 million tonnes of carbon dioxide a year by 2010-11. The deferral of the 2008 increase from April to October is expected to lead to an additional 0.1 million tonnes of carbon dioxide being emitted in 2008-09, than would have been, had the increase gone ahead in April. However, there is no impact in subsequent years, as the rate returns to the pre-announced levels.[52]

However, the continued rise in crude oil lead to calls for the Government to take further action to reduce pump prices. The AA petitioned for the Government to scrap the proposed 2p duty rise in October 2008, and consider using the tax system to reduce the size of price fluctuations – a 'duty regulator' mechanism.[53] Road hauliers also supported the adoption of a duty regulator, and on 27 May 2008 hauliers organised a series of 'go slow' demonstrations.[54]

Some commentators argued that cutting duty rates would be quite viable, as rising oil prices will provide a windfall in terms of Exchequer receipts, from tax on road fuels and well as taxes on North Sea oil production. In mid-May the British Chambers of Commerce published estimates that this 'windfall' was worth £505m since the start of the 2008-09 tax year.[55] However, the Institute for Fiscal Studies have argued that this type of analysis ignores the wider impact on oil prices on the economy. The *Financial Times* quoted Stuart Adam, senior economist at the IFS, as saying, "broadly speaking, it all goes through the wash and in the end, it doesn't make much difference"

> [Mr Adam] added that it was quite likely that not only would consumers adjust their driving habits to take account of higher petrol prices, but also spending by businesses was likely to see a significant adjustment. "Things like that are just too simple," he said of the forecast of windfall tax receipts from higher oil prices. "One possibility is that people adjust to the higher price by buying less fuel or lower spending on other things," Mr Adam said. With less spent on, say, dining out or new clothing, value added tax collection would be lower than that forecast in the Budget, offsetting the rising revenue from taxes on oil companies.
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> British Airways, he added, would have to pay more to put fuel in its aircraft and when retailers shipped goods in from the Continent, there would be higher costs that would reduce their own profits. While oil companies may pay higher taxes, other companies

52 HC Deb 25 March 2008 cc39-40W
53 "AA calls for fuel tax cut as oil hits $135 a barrel", *Times*, 23 May 2008
54 "Lorry fuel tax protest hits roads", *BBC News site*, 27 May 2008
55 British Chambers of Commerce press notice, *Government's six week £505 million fuel tax windfall makes October's 2p fuel duty rise unjustifiable*, 16 May 2008

> would pay lower taxes as the result of lower profits, he said. "If they were doing the Budget today, they would forecast £1.25bn more in tax revenues," Mr Adam calculates. But that calculation on its own is less than helpful, given the need to adjust other revenue forecasts downward. "On top of all this, you've got to layer on what (more expensive) oil is going to do to the macroeconomy."[56]

In a written answer given at this time the then Exchequer Secretary, Angela Eagle, stated, "the impact of higher oil prices on overall tax revenues and the public finances is complex, and will depend on their wider impact on the economy in general, including the effect on factors such as profitability and retail prices. Reliable estimates of the impact of changes in prices are not available."[57] The Minister also made this argument at the Committee stage of the *Finance Bill*, opposing a new clause tabled by Stewart Hosie MP for a 'fuel duty regulator': a mechanism whereby any additional VAT receipts, accrued from long-term increases in oil prices, would be used to reduce duty rates:

> As fuel duty is a fixed rate, reduced fuel sales lead to reduced fuel duty receipts. In addition, the so-called VAT windfall does not materialise. In the context of the wider economy, people tend to have a fixed amount to spend. Therefore, if they have to spend more on one commodity they tend to spend less on others, leaving the overall level of VAT receipts largely unchanged. I might even say that the VAT windfall from higher nominal fuel prices is a myth. Part of the basis of the new clause is that that windfall exists and can be recycled, to give support to hauliers and those particularly affected by high nominal fuel prices. It is also important to remember that VAT-registered businesses are liable to reclaim the VAT that they incur when buying fuel for business purposes, so the VAT paid at the pump should make no difference to their overall tax burden.
>
> Reducing duty would not guarantee a reduction in the fuel price at the pump … there are other reasons for the record levels of oil prices, none of which are to do with levels of fuel duty or taxation policy in the UK [and] … the only way to deal with that is globally. My right hon. Friends the Prime Minister and the Chancellor are attempting to do that in the G7 and other international bodies, where work is going on to see whether the high oil prices caused by different global events can be reduced. Since those wider VAT effects can be taken into account, the lost fuel duty revenues are likely to outweigh any extra VAT, given that there is no windfall. As a result, the new clause, although it is presented as revenue neutral, would be likely to lead to significant revenue losses for the Exchequer. It would also lead to massive volatility in receipts.[58]

Writing in the *Times*, Alice Miles argued that freezing duties for the remainder of the year would be "an honest solution to a problem not of the Government's making":

> I wouldn't normally have much sympathy with fuel protesters, either private drivers or hauliers. The truckers can and should pass on the transport costs to their customers. Once you start allowing an "essential-user rebate" on fuel, as they are demanding - 25p a litre, no less! - where do you draw the line? Nurses, teachers, emergency services, night workers, any commuter from a rural area who needs to drive to the railway station, the mother taking her children to school in an area without public transport... we could most of us claim essential usage of one form or another. The 2p

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[56] "Analysts divided over fiscal silver lining on dark cloud of dearer oil", *Financial Times*, 29 May 2008
[57] HC Deb 8 May 2008 c1124W
[58] PBC (Finance Bill) 15 May 2008 cc245-6

duty increase due in October is different. It has already been deferred once and the Government could do so again. It isn't a U-turn: the Chancellor simply announces that when, in March, he declared that the increase would go ahead in October, fuel prices were expected to have fallen by then. Instead, they have shot up higher. If there is no fall in prices before the autumn, the fuel duty increase will be deferred again. It is an honest solution to a real problem not of the Government's making. The achingly high price of fuel is punishment enough for the motorist today - take it from someone who doesn't live in a city and does need to drive on a daily basis.[59]

However, a leader article in the paper a few weeks before argued that higher pump prices might be necessary, if the problem of climate change was to be seriously addressed:

Big users of petrol and diesel will be tempted to blame the Government. They will argue that tax relief is deserved, and affordable, since 68p of every 110p litre of petrol goes to the Exchequer. Since the Treasury is a clear beneficiary of rising oil prices it may be argued that the Government should give all the help it can to citizens already struggling with food, heating and mortgage bills. Harder heads may suggest that fuel duties should be cut because UK economic growth is threatened. At present fuel duties account for about 4.5 per cent of the Exchequer's revenue. For all these reasons it may be politically expedient to cap that revenue. But it would not be wise, and not only because the extra duty on fuel will help the Government to plug the gaps that are appearing in the public finances. More efficient use of fuel can reduce costs. Higher oil prices create incentives for drivers, and others, to use low-carbon fuels. Oil supplies are growing gradually but inevitably shorter. The ecological arguments in favour of finding alternatives are growing ever stronger. If we are to move to a post-petrol age, as we must, the people responsible for pollution must learn to appreciate the cost of carbon, and the cost of carbon pollution. High pump prices may be the only way.[60]

An editorial in the *Financial Times* argued that any substantial cut in tax would be costly, unfair, and ineffective:

A superficial tweak to motoring taxes would damage the credibility of the government's green objectives without helping motorists. Yet a big cut is unaffordable. It is also unfair: fuel duty is paid disproportionately by the rich, even as a proportion of their higher incomes. Replacing it with another tax is regressive. It is less easy to guess the progressivity of vehicle excise duty, but the best estimate is that the poorest - who tend to drive small cars or no cars at all - pay less of this tax. Nor can temporary tax cuts lower the price of petrol much. With supply largely fixed in the short term, a tax cut would stimulate demand, raise pre-tax prices and transfer revenue from the government to refiners. Unless the tax cut sucks in large quantities of petrol from overseas, the likely benefit to the motorist is modest.[61]

The paper went on to say, "let us admit that rising fuel duty is not the cause of rising fuel prices." This was very much the theme of a piece by Gordon Brown, then Prime Minister, which appeared in the *Guardian* at this time: "The cause of rising prices is clear: growing demand and too little supply to meet it both now and - perhaps of even greater significance - in the future. Higher demand is one of the major results of the scope, speed and scale of

[59] "Scrap the 2p fuel duty increase now", *Times*, 28 May 2008
[60] "Leader: Chemistry: the rising price of oil should not bring tax relief", *Times*, 30 April 2008
[61] "Editorial: Pumped up with nowhere to go", *Financial Times*, 28 May 2008

globalisation as Asian economies, as well as Opec countries themselves, demand more oil … It is the market's belief that ever-growing demand will continue to outstrip supply that has pushed up the oil price. And we are becoming increasingly aware of the technical, financial and political barriers to the production of more oil."[62]

At the report stage of the *Finance Bill* on 2 July the Exchequer Secretary reiterated the Government's position that it would reconsider the proposed 2p duty rise in October:

> It was in recognition of the impact of high fuel costs on business and families, of which we have understandably heard a great deal today, that the Chancellor took the decision in the Budget to defer the planned 2p a litre increase in fuel duty. Since October and the last increase in fuel duty, fuel prices at the pump have risen by 20 per cent., even though tax rates have remained unchanged. The Chancellor will look closely at those and all the other factors when considering whether to go ahead with the planned 2p a litre fuel duty increase in October. Since the fuel duty escalator that we inherited from the Conservative party was abolished in 1999, fuel duty has actually fallen by 16 per cent. in real terms. The current fuel duty rate is 50.35p a litre: had fuel duty gone up in line with inflation since 1999, it would be 61p a litre; and had it gone up in line with the Conservative party's 3 per cent. escalator, as it did prior to 1999, duty rates would now be 79p a litre—a full 29p a litre higher. Furthermore, figures from the Office for National Statistics show that the real cost of motoring has fallen by 13 per cent. in real terms since 1999. That is largely because the purchase price of cars has fallen while their fuel efficiency has increased.[63]

However, on 16 July the Chancellor announced that the 2p duty increase would be postponed, and that consequential, planned increases in road fuel gases, biofuel duty rates and rebated oils rates would also be postponed. Mr Darling said, ""The global credit crunch and sharp rises in world oil prices have pushed up prices at the pump. Today's decision will help motorists and businesses get through what is a difficult time for everyone."[64] The announcement appears to have been generally welcomed by motoring organisations and haulier groups,[65] though the *Financial Times* argued this was a "bad idea … Rising oil prices are sending a clear signal to reduce consumption. It is a mistake to interfere with that message." The paper went on to suggest the move was "damaging to fiscal policy making … the £1.1bn cost of postponing the duty increase for a year is not a significant as the 10p tax climb-down handout,[66] but is still revenue forgone when public finances are strained."[67]

In an Opposition day debate on fuel duty the same day the then Chief Secretary to the Treasury, Yvette Cooper, noted that similar deferrals of proposed duty increases in 2003, 2004 and 2005 had also been announced in July. Speaking for the Conservatives, Philip Hammond argued that a better approach would be the adoption of a 'fuel duty stabiliser' – to

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[62] "Comment is free: We must all act together - the oil crisis is a global problem requiring global solutions", *Guardian*, 28 May 2008. At the time the Government announced plans to increase North Sea oil production, including provisions to mitigate the tax charge on new developments within existing oil fields (BERR press notice, *Increased oil production starts at home*, 28 May 2008).

[63] HC Deb 2 July 2008 cc 948-9

[64] HM Treasury press notice 77/08, *Fuel duty increase postponed*, 16 July 2007. The change was confirmed in a PQ the next day: HC Deb 17 July 2008 c631W.

[65] For example, "Chancellor surrenders to demands to delay 2p rise in fuel duty", *Guardian*, 17 July 2008

[66] [A reference to the Government's announcement on 13 May 2008 to increase the personal allowance by £600 for the current tax year – costing £2.7bn – as a way to compensate taxpayers who had lost out from the withdrawal of the 10p starting rate of income tax from April 2008.]

[67] "Editorial: Darling drives in the wrong direction", *Financial Times*, 17 July 2008

amend duty rates in line with oil prices to keep Government revenues "broadly the same".[68] Speaking for the Liberal Democrats Vincent Cable suggested "there is a sensible economic case, if not a political one, for waiting and not rushing into this decision":

> We do not know what the oil price will be in the autumn, and we have no idea what the revenue position will be. It has been rather embarrassingly exposed that the Government have not even made any preliminary estimates of that … As I understand it, the problem has arisen entirely because of the way the Government have subordinated their tax policy to our rather peculiar definitions of recess. They have had to make their announcement now because they had committed themselves to a policy change on 1 October. Had they said in the spring Budget that the decision would be made in mid-October, we would not have had this problem and the Government would have given themselves the freedom to make a much more considered, balanced and sensible decision than the one that they have been rushed into.[69]

The intended increase had been provided for by s15 of the *Finance Act 2008*. The timing of the increase was postponed by Order (SI 2008/2168).

As it transpired, oil prices peaked in July 2008, and – with the growing severity of the global economic slowdown – prices fell steadily for the remainder of the year. In the Pre Budget Report on 24 November, the Government noted that oil prices had fallen by more than 20 pence per litre, and as a consequence, the 2p duty rate rise would be introduced from 1 December 2008. This change was done by effectively reinstating the effect of s15 of the *Finance Act 2008*, with effect from 1 December 2008, by means of a second Order (SI 2008/3018).[70]

The change coincided with the Labour Government's temporary reduction in the standard rate of VAT – from 17.5% to 15%, lasting from 1 December 2008 to 31 December 2009. The cut is one of the main ways the Government elected to provide a fiscal stimulus to the economy.[71] As the PBR noted, one (temporary) effect of the VAT cut was that "the cost of petrol and diesel will fall for private motorists, who should see no increase in the price they pay at the pump for this measure."[72] This may explain why there was relatively little reaction to the duty rate increase. At this time the Government also confirmed that it would increase the main duty rates by 1.84p on 1 April 2009, as announced in Budget 2008.

The ability of the Government over the last few years to delay duty rate changes already provided for in statute derives from the operation of what is known as the economic regulator; the explanatory memorandum to the Order which brought in the 2p increase from 1 December 2008 gives an explanation:

> This instrument has been made by the Treasury in exercise of their powers under sections 1(2) and 2(3) of the Excise Duties (Surcharges or Rebates) Act 1979 (c. 8) ("the Regulator Act"). The Regulator Act consolidated the provisions of section 9 of,

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68 HC Deb 16 July 2008 c327, c323
69 HC Deb 16 July 2008 c336
70 A second Order made the relevant changes to road fuel gas: SI 2008/3019
71 For more details see, *Budget 2009* HC 407 April 2009 pp27-29.
72 Cm 7484 November 2008 p136

> and Schedules 3 and 4 to, the Finance Act 1961 (c. 36), with the provisions amending them. In summary, the Regulator Act provides the Treasury with the power, by order made by statutory instrument, to provide for an adjustment (an increase or decrease) of any liability to certain excise duties (or of any right to drawback, rebate or allowance in respect of such duties) by up to 10 per cent. Such an order ceases to be in force at the expiration of a period of one year from the date on which it takes effect, unless continued in force by a further order.
>
> The powers conferred by the Regulator Act were exercised for the first time in August 2004, and since then have been exercised in December 2004, July 2005, December 2005, July 2006, December 2006 and July 2008. The exercise of the powers was in response to the continuing uncertainty in the oils market in the period after the Budget. As with this instrument, the point of the exercise of the Regulator Orders was to negate, temporarily, the effect of an increase in duty set in the Finance Act of that year, in the light of the changed international market conditions since those provisions were enacted. The similar powers conferred by the Finance Act 1961 (as amended) were exercised on four occasions, most recently in December 1976.
>
> Budget 2008 announced that the planned fuel duty increase of 2 pence per litre in April 2008 was postponed to 1st October 2008, to support the economy and to help business and families. To give effect to this decision, section 15 of the Finance Act amended the Oil Act to provide for those rates of excise duty to be increased with effect from 1st October 2008. For the “main” road fuels this was an increase of 2 pence per litre. The rates of rebate for the heavy oils that are not for road fuel and light oil for use as furnace fuel use were increased by the same percentage as main road fuels. Also, with effect from 1st November 2008, section 13ZA1 of the Oil Act provides for only a partial rebate of excise duty on certain heavy oil used as heating or a fuel for an engine at the rate specified in section 11(1)(a) of the Oil Act rather than at the rate specified in section 11(1)(c).
>
> On 16th July, the Chancellor of the Exchequer informed Parliament, in answer to a parliamentary question, of his decision not to proceed with the planned 1 October increases in fuel duties, in the light of the global credit crunch and sharp rises in world oil prices which had pushed up prices at the pump. The principal Order gave effect to that decision. Following a review of the position in the Pre-Budget Report, this instrument, by revoking the principal Order, gives effect to the Ministerial decision to implement the increase in effective rates as announced at the last Budget, but with effect from 1st December 2008.[73]

The House debated these Orders on 13 January 2009; on this occasion the then Exchequer Secretary, Angela Eagle, defended the Government’s policy by saying:

> The structure [for setting duty rates] is such that announcements are made in pre-Budget reports and Budgets. Because of the volatility of the oil price—which, alas, is not something that national Governments can particularly control, as we saw in the summer—it makes sense to have flexibility in the system. Therefore, although there is a broadly pre-announced approach to attempt to provide certainty in an uncertain environment, if unexpected things happen—for example, the oil price doubling to the highest real price we have seen in many years, causing a very large spike—it is right to have the flexibility to postpone what we intended, given that as we got closer to the

[73] *Explanatory memorandum to … SI 2008 No. 3018*, January 2009 paras 4.1-5

relevant date, the conditions had become so different from those we had imagined when the decision was made.

That is not dither and delay; it is responding to changes in real circumstances and expressing judgments closer to the time … Parliament has considered, debated, voted on and passed the measure and it has merely been postponed. This, rather oddly, is a revocation order to revoke that postponement, so we are revoking a revocation ... Therefore, we are back where we were in the 2008 Budget.[74]

[74] First Delegated Legislation Committee, 13 January 2009 cc8-9