Dear Lilian

Thank you for your letter of the 11 December 2018, in which you ask for an update on the VW emissions scandal and related issues. I am sorry for the delay in replying.

You asked about the progress of the VW technical “fix”. As you will recall, since 2016 VW have been applying a technical update, which removes the cycle recognition strategy or ‘defeat device’, to vehicles across their four affected brands (VW, Skoda, Audi and SEAT).

As of 20 January 2019, VW reported that it had applied this update to 870,000 (or 74%) of the 1.2m vehicles affected in the UK. I have been clear with VW that we expect them to deliver a high completion rate on the recall - we have held many meetings with VW to assess progress and have pressed them to complete the recall as quickly as possible. We believe it is VW’s responsibility to persuade their customers and we have not made it compulsory for the owners to do so. A 74% uptake rate is in line with similar UK vehicle recall exercises.

In relation to the 2018 German investigation where prohibited defeat devices were found to be fitted to Audi, VW and Porsche vehicles. VW has advised that there are 14,704 Audi and 13,453 VW vehicles affected in the UK. VW have maintained that they consider this more recent investigation by the German authorities to be separate to the original emissions issue discovered in September 2015, and it does not plan to offer the Trust Building Measure (TBM) to the affected vehicle owners. We have argued that this approach is quite inadequate, and that they should extend the TBM.
I note that VW Group have a new Managing Director in the UK, Alex Smith, who has recently taken up his post. I plan to meet with him soon to reinforce our view that all affected vehicles should be included in the Trust Building Measure and that all updates should be resolved quickly, with UK consumers treated fairly. I am hopeful that the change in Managing Director at VW UK will be an opportunity for further progress to be made to restore UK consumer confidence.

You raised concerns about the technical measures that are being applied by VW. The Vehicle Certification Agency (VCA) originally approved the affected Skoda vehicles and was therefore responsible for checking the technical updates for these models, in accordance with the European legislative requirements. The purpose of the technical updates is to bring the vehicles into conformity with the relevant Euro 5 requirements.

Shortly after the technical updates were being rolled out in the summer of 2016, the Department became aware of reports that the updates may alter the performance and/or durability of the vehicles. The Department’s technical experts, along with VCA, halted the Skoda sign-off process while further detailed information was sought from VW. Following lengthy technical discussions and liaison with the company, the Secretary of State wrote to VW in May 2017, confirming that the Department was content that all of the remaining technical updates satisfied the European requirements.

It is VW Group’s responsibility to ensure that their customers are satisfied, and we have pushed them to make sure that they are handling queries and complaints in an appropriate manner. The Department continues to encourage consumers who are not satisfied with their vehicle, the technical ‘fix’, or the service they have received, to contact VW Customer Services. The previous Managing Director of VW Group UK, Paul Willis, had assured my Department that he would properly investigate every consumer complaint about this issue. We expect the new Managing Director to do the same thing.

You asked for an assessment on whether we will open a UK criminal investigation into VW. As I have previously advised, the development and manufacture of the relevant engines occurred in Germany, and that is where the vast majority of the relevant evidence is located. It is thus for the German Government in the first instance to pursue criminal action, and we expect—and have been
reassured—that their action will be comprehensive. While this is under way, it would not be appropriate to initiate a separate investigation of VW in parallel to that of the German authorities. I understand that the German investigation is still progressing, and we do not yet have an indication of when it is likely to be closed. As stated in my previous reply, it will be at this point that we will reassess the prospects of a successful prosecution in the UK.

The VW Group’s treatment of UK consumers has not been acceptable and the Department’s view remains that vehicle owners should be compensated for the inconvenience, uncertainty and worry caused by VW’s actions, as well as for any loss in the value of affected vehicles which may become apparent. I have met with VW executives to reiterate these views and remind them that we expect the company to treat their UK consumers fairly. I will continue to press this issue in future discussions with the new VW Group UK Managing Director.

There remains scope, of course, for the individuals concerned to take forward legal action against VW. We continue to support claims brought by affected consumers, and to follow the progress of the Group Litigation Order. The Department has offered the legal firms involved any reasonable assistance that they require; however, it would not be appropriate for the Department to involve itself directly in the litigation, or to assist with specific individual claims.

As stated in my previous response, it has been an offence from July 1 2018 for a manufacturer to supply a vehicle to the UK market which contains a prohibited defeat device. Previously the UK authorities were limited to taking action against a manufacturer who obtained or sought to obtain type approval through the VCA. Through these enhanced powers, UK authorities are now able to prosecute any manufacturer who places a vehicle on the UK market, having failed to disclose the existence of a defeat device when applying for the relevant type approval related to that vehicle. The fines can be up to £50,000 per offence.

In the last three years, we have trebled our resource investment in this area, establishing the Market Surveillance Unit (MSU) and building both our capacity and capability to test a wide selection of vehicles. In my previous letter, I provided background to the MSU’s 2017 testing programme, and provided a link to their most recent report. I expect the report on the 2018 testing programme to be published by the end of March 2019.
The MSU is based within the Driver and Vehicle Standards Agency (DVSA), which provides the expertise required to oversee and manage the continued testing of vehicles and components to ensure compliance with legal requirements post market. The VCA continues to lead on our new pre-market vehicle type approval testing, in conjunction with DfT technical experts. Both the VCA and DVSA continue to work closely together in fulfilling these roles.

In response to your final point, I do not anticipate any changes to the roles and responsibilities of the DfT’s Agencies as a result of the MSU’s operating model. I believe the present arrangement is working effectively, given the DVSA’s established role in enforcement and prosecution and the technical expertise of the VCA.

JESSE NORMAN