Dear Lilian

Thank you for your letters of 18th December 2017 and 11th July 2018 in which you requested an update on the actions taken by the UK Government regarding the Volkswagen Group emissions issue. I apologise for the delay in sending my reply. As discussed below, I was extremely concerned to learn that the German approval authority (KBA) has recently identified a number of further Volkswagen Group vehicles fitted with illegal defeat devices and I have been pressing Volkswagen for further information and action.

While it is reassuring that the German investigation uncovered this further deception, it is clearly a further unacceptable development. I have spoken with and written to a senior representative of Volkswagen AG, with a further reference to the Chairman of the Supervisory Board, to make clear that this matter must be resolved quickly, and to press for fair treatment of UK consumers. In particular, we are seeking to have them extend the existing ‘Trust Building Measure’ to these vehicles. I see no reason why Volkswagen should be unwilling to do this, and am disappointed with its responses to date.

You asked for an update on the German investigation into Volkswagen, and whether a decision has been made as to whether we will open a UK investigation. You will have seen the recent news that the German Authorities have fined Volkswagen AG €1bn for the emissions scandal. This should send a strong signal to all manufacturers that such wrongdoing will be punished. We had been clear that we believed it is for the German authorities, in the first instance to take the lead on taking legal action against Volkswagen AG, as it is based within their territory.
The development of the relevant engines occurred in Germany, and that is where the necessary evidence would be located. I should note that the German authorities have made clear that the imposition of the fine against Volkswagen AG does not affect their continuing consideration of criminal action against a number of individuals involved in this wrongdoing. The Department will continue to monitor the situation and consider how it affects the case for a potential separate legal action in the UK, as to any wrongdoing committed by Skoda in their application for type approval from the UK authorities. I have received clear and authoritative legal advice to the effect that it is only after a successful prosecution under type approval legislation in Germany that the UK will be in a position to see evidence that could allow prosecuting authorities to establish that Skoda, or its officials, ‘knowingly or recklessly’ provided false information to obtain type approval.

Regarding your query on the release of the Jones Day report, I can advise that I raised this issue during my meeting with Volkswagen executives in December 2017, and questioned their claims that no report exists. I have pressed them to ensure that the findings of Jones Day are released as soon as possible. There have been recent reports from Germany that their prosecutors have been able to gain access to further information from the Jones Day investigation. I hope that the remainder of the investigation in Germany will be swift and comprehensive, so that we are able to proceed with our own review of the evidence that they have obtained.

You will also be aware that the legal firms preparing for action against Volkswagen Group in the UK were granted a Group Litigation Order at a hearing in March and set a seven month deadline for consumers to join. The Department continues to discuss this with the lead firms of legal advisors and will offer any reasonable support to help them seek justice on behalf of any affected UK consumers.

In your letter, you also asked for an update on correspondence between the Department and the EU Commission regarding legal action in the UK. In May we received a further letter in response to the reply that I had sent in September 2017. I have responded to this and provided comprehensive replies to the points made by the Commission.

Ministers, have also pressed Volkswagen to ensure that the technical updates were available as soon as possible for UK consumers. The Department monitors progress and meets with Volkswagen monthly to maintain their focus on the best outcome for UK consumers. As of the 20th
of June, Volkswagen reported that it had applied the update to 859,263 of the approximately 1.2 million affected vehicles in the UK.

As advised in my previous reply, the work of Ministers and the Department was instrumental to the implementation of Volkswagen’s European-wide ‘Trust Building Measure’. This is provided to all consumers having the technical update applied. Within this, there are assurances that VW will respond reasonably and appropriately to every complaint relating to the recall. We also received a commitment from Paul Willis (Managing Director of Volkswagen Group UK) that he will investigate properly every consumer complaint about this issue (Paul.Willis@vwg.co.uk). Many consumers also sought the underlying data for the Vehicle Certification Agency’s (VCA) approval of the Skoda technical solutions and we hope that the publication of this has been helpful to them.

Turning to the compliance of other manufacturers, you asked about the reports of emissions non-compliance in some Nissan factories in Japan. We have raised this with Nissan executives and written to request full detail of what this could mean for vehicles on the UK market.

I am also concerned regarding the BMW recall relating to the B+ connector and am taking a close interest in the work of the Driver and Vehicle Standards Agency (DVSA) to ensure that UK consumers are protected. The Department is reviewing the vehicle recall system and I have written to the Society of Motor Manufacturers and Traders to remind their members of their obligation to notify the DVSA as soon as they know that a product that they have supplied or placed on the market poses risks to the consumer.

You also asked for an update on which manufacturers have agreed to implement measures to address roadside nitrogen dioxide concentrations. The Government has pressed all major manufacturers to recalibrate their vehicles to reduce the real world emissions of their vehicles. The manufacturers that have confirmed they will offer, or are currently offering, voluntary emissions upgrades to one or more of their vehicles in the UK market are Audi, Volkswagen, Mercedes-Benz, Renault, Fiat and GM / Vauxhall. A number of manufacturers have also confirmed to the Department that they are either (i) using an enhanced recalibration when the vehicles are being produced or (ii) aiming to develop vehicles which comply with the new Real Driving Emissions (RDE) regulations before they are actually in force.
You will be aware that in the spring of this year the Government consulted on proposals to strengthen the penalties available for the use of defeat devices. Following analysis of the consultation responses I am pleased to confirm that we have made it an offence for a manufacturer to supply a vehicle to the UK market which contains a prohibited defeat device. It was already an offence in the UK knowingly or recklessly to make a false statement regarding the existence of a defeat device when making an application for type approval for a vehicle – but this meant that we were limited to taking action against a manufacturer who obtained or sought to obtain type approval in the UK through the VCA. We have expanded this so that we are now able to take action against any manufacturer who places a vehicle using a defeat device on the UK market. Through these powers we are now able to prosecute any manufacturer which cheats on the required tests for their vehicle and then brings the non-compliant product to the UK. This significantly strengthens the enforcement action we can take in this area. It will apply to vehicles placed on the market after these new rules entered into force on 1st July.

Finally, I am also pleased to advise that our new Market Surveillance Unit has published the results of its 2017 programme. The report is available here - https://www.gov.uk/government/publications/vehicle-market-surveillance-unit-programme-results-2017. A total of thirty three vehicles were tested, including passenger cars, light vans, trucks and buses. The checks show that the vehicles tested are, in general, compliant with the emission levels to which they were approved. But some, including the Nissan Qashqai, showed poor real world emissions. While these comply with laboratory-condition requirements, their NOx emissions while driving on the road are much higher and contribute to poor air quality. The Euro 5 Jeep Grand Cherokee also produced very high NOx emissions, but the manufacturer has agreed to update their vehicles voluntarily to address this issue. The work also identified one non-compliance in the heavy duty sector. The manufacturer, IVECO, has agreed to recall its vehicles voluntarily so that it can recalibrate the software in the vehicles to correct the issue and improve real-world emissions.
I am confident that the Market Surveillance Unit will play an important role in ensuring that vehicles on the UK market comply with the standards that they are required to meet. I hope that the information contained in this and future reports will provide reassurance that the Government takes compliance extremely seriously and is committed to restoring trust in the vehicle approval system.

JESSE NORMAN