



ACS Submission – E10 Petrol, Consumer Protection and Fuel Pump Labelling

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the Department for Transport's consultation on E10 Petrol, Consumer Protection and Fuel Pump Labelling. ACS represents 33,500 convenience retailers across the UK including the following fuel retailers Rontec, Motor Fuel Group, MRH, Co-op and thousands of independent retailers. For more information on ACS see Annex A.

There are 8,430 forecourts across the UK, trading in rural (51%), suburban (24%) and urban (25%) locations. London forecourts sell more fuel per store than any other region in the UK and Wales has more forecourts per head than other parts of the UK. There are a diverse group of fuel retailers operating in the UK with 20% of fuel sites operated by multiple retailers, 13% oil company-owned multiples, 24% independent multiple retailers and 42% independent retailers¹.

Since 2012, industry has been permitted to introduce E10 following the specification change for petrol which saw the maximum level of ethanol allowed increase from 5% to 10% by volume. However, there has been reluctance to introduce E10 voluntarily by industry due to the commercial risks associated with introducing a new fuel grade which consumers have limited confidence in and understanding of. There are fears that by introducing E10 on a voluntary basis, and especially since it is not compatible with all cars, customers may switch fuel retailers and leave forecourts investing in E10 at a competitive disadvantage.

Therefore, if E10 is to be introduced, the government should mandate its introduction. This will ensure that there is a level playing field, where introducing E10 does not lead to a competitive disadvantage for fuel retailers. We believe that in the transition to E10, the E5 protection grade should be renewed. However, rather than accommodate all three fuel grades, 95 E5, 95 E10 and Super at the pumps, which members suggest would be extremely costly to put the infrastructure in place, there should be a switch from the current Super grade to E5 and E10 be introduced as the new Premium grade.

We have responded to the relevant consultation questions below. In summary, our position is:

- The introduction of E10 should be mandated by the government.
- There are extensive commercial barriers for the introduction of E10, which are detailed below.
- We would welcome clarification to whether E10 will receive a lower duty rate.
- The E5 protection grade should not mandate retailers to offer 95 E5 as a premium grade. Fuel retailers should have the flexibility to offer E5 as a Super grade.
- We agree that the protection grade should apply to filling stations that supply two grades of petrol and more than 3 million litres of all fuel (petrol and diesel) in the

¹ [ACS Forecourt Report 2017](#)

previous calendar year but only if the E5 protection grade allows for fuel retailers to offer E5 as a Super grade.

- Using the number of tanks is the most appropriate metric to determine which forecourts could supply E10 alongside their current range. However, other factors must be taken into account as not all sites which have four tanks will be able to supply E10 alongside their current range.
- Practical guidance should be developed on how fuel retailers, particularly small forecourt operators, can comply with AFID.
- Six months would be an appropriate length of time for fuel retailers to prepare for implementation of AFID.

1. Do you favour option 1, option 2 or an alternative means of ensuring ongoing E5 availability? Please provide your reasoning.

We support Option 2 as it would provide fuel retailers with the flexibility to choose which petrol grade was maintained as E5 if they were to also sell E10 on their site. Given that certain fuel retailers would be mandated to provide E5, they should be allowed the flexibility to choose how they offer it.

If the government proceeded with their preferred option, Option 1, it would place a number of restrictions on fuel retailers. It would also present logistical and operational challenges where fuel retailers may need to realign tanks, invest significantly in changes to infrastructure, such as installing additional tanks, pipework, or pumps, in order to offer E5 as an additional pump alongside Super. Moreover, following consultation with our members, it would be very unlikely that the same base could be used to blend both E5 and E10, therefore there would be restrictions on supply infrastructure. We recommend that the government consult with fuel suppliers to ensure that there is supply infrastructure in place to provide 2 premium grades.

Option 1 could also lead to limiting choice for consumers. Instead of investing heavily in new infrastructure to accommodate an additional pump to offer E5 as a Premium grade alongside E10 as a Premium grade, which would be extremely costly, fuel retailers may decide to realign their tanks and remove the Super grade to offer both Premium grades. However, this too would present costs for fuel retailers and leave some consumers that want super grade fuels for their vehicles without that option.

The consultation document raises concerns that Option 2 would mean that fuel retailers would choose to offer E5 only in the Super grade, forcing consumers to buy more expensive fuel. However, currently there is little competition on the pricing of Super grades due demand as customers shop by brand rather than by grade. If the demand of E5 increased following the introduction of E10, this would cause the price of E5 to fall as fuel retailers would compete on price, which would ultimately benefiting the consumer. Therefore, we believe that the government's concerns about the price of E5 as a Super grade may be unfounded.

2. Do you agree that a protection grade for Premium unleaded 95 octane should initially run until 31 December 2020? If not, what date would you recommend?

The government must make an assessment regarding the likelihood of a mandated introduction of E10 to avoid the E5 protection grade lapsing again.

3. Do you agree that the protection grade should apply to filling stations that supply two grades of petrol and more than 3 million litres of all fuel (petrol and diesel) in the previous calendar year? If not, please explain whether you disagree with the volume or if there are better ways of distinguishing which forecourts it should apply to.

We agree that this threshold is the best way to determine which forecourts should offer E5 as a protection grade but only if the E5 protection grade allows for fuel retailers to offer E5 as a Super grade.

The three million litre threshold, while low, allows for the capture of forecourts across the UK and is therefore appropriate to ensure that there is total coverage of E5 as a protection grade. However, the definition referring to two grades of petrol is reasonably redundant given that the government's intention is to have 95 E5 sold alongside E10 and retain Super as it will mean considerable financial burdens on fuel retailers to update the infrastructure on their sites to accommodate for tanks/pipework/pumps.

From consultation with fuel retailers, representing over 1,000 sites, 56% would be required to offer an E5 protection grade alongside E10. This is a significant proportion of our members who would be required to offer E5 as a protection grade. Therefore, we believe the supply chain should left to provide the proposed protection grade in the most efficient way possible (and also be the least disruptive) to fuel retailers, particularly for those that would be mandated to offer an E5 protection grade alongside E10.

4. What are the commercial barriers to introducing E10 in the UK?

The voluntary introduction of E10 by industry has yet to take place because it presents a commercial risk for fuel retailers. The lack of consumer confidence in the product which is not compatible with all cars and may have a lower MPG means that introducing it on the market could lead to consumers switching from one fuel retailer to one which still offers E5. If E10 is to be introduced, it must be on a level playing field for all fuel retailers, which will not be achieved on a voluntary basis. Therefore, the government must mandate the introduction of E10 if they wish for it to be introduced to fulfil their RTFO requirements.

As set out in the consultation document, the introduction of E10 could mean that fuel retailers may be required to provide E10 as an additional choice to consumers alongside E5 and Super Unleaded. In this instance, the introduction of E10 presents commercial risks for fuel retailers as it could mean that they are required to invest significantly on infrastructure on their site, for example, installing additional tanks, realigning tanks, making changes to pipework. The vast majority of the pumps on forecourts are either 4 or 6 hose, accommodating 2 or 3 grades respectively, so pump and nozzle availability for 3 gasoline grades and diesels would be particularly challenging without significant infrastructure investment. Making such changes could also lead to operational disruption on site. For instance, if a fuel retailer installed additional tanks, these may be smaller in order to fit on site. This could lead to additional deliveries, increased costs at the pump, and uncertain level of stock at that forecourt as they would heavily rely upon more frequent deliveries to sustain their supply.

5. Do you agree in principle that supplying E10 could make delivery of the RTFO more cost effective?

As recognised by the Department for Transport, E10 is one option to support the delivery of the RTFO. However, while E10 may make it simpler to reach the RTFO targets, it does not mean the government necessarily needs to do so. The target can be reached through alternative means, for example, biodiesel. The government must consider whether the costs and consumer reaction that the introduction of E10 would present is proportionate to the benefits of reaching RTFO in this way.

6. Do you agree that requiring the introduction of E10 as an additional choice for consumers would be an effective way to introduce E10 in the UK?

Introducing E10 as an additional choice for consumers alongside E5 is workable, but only if fuel retailers are given the flexibility on how they offer E5. However, if E10 is to be introduced, its introduction must be mandatory.

The retention of E5 as a protection grade will undermine introduction of E10 as customers will not switch unless financially incentivised. We would welcome clarity to whether the government has plans for a different excise duty on E10?

7. Could filling stations with more than four tanks supply E10 as well as 95 E5? If not, why, and what would the appropriate number of tanks be that would permit this?

In theory, forecourts with more than four tanks should be capable of supplying E10 as well as 95 E5. However, in practice, it will ultimately depend on the set up of the forecourt on a case by case basis. For instance, a forecourt with four tanks may use 2 for petrol and 2 for diesel, this would mean a tank would have to be realigned to petrol. Considerations also need to be taken into account regarding the pipework and which tanks service which pumps as a forecourt with four tanks may only service two pumps for instance.

There government should take caution if they consider increasing the threshold by number of tanks as there is a risk that this could contradict the Department for Business, Energy and Industrial Strategy's work on ensuring fuel supply resilience. There is a lack of adequate tankage on forecourts to supply 3 petrol grades, which would mean that fuel retailers would need to increase the number of the tanks on site and decrease their size. This means additional deliveries which leads to increased costs at the pump but also a more uncertain level of stock at that forecourt as they would heavily rely upon more frequent deliveries to sustain their supply. We also have concerns that being required to store multiple grades could mean too much storage space being given to slow moving product and tankers unable to deliver full loads as a consequence. As such, if there was disruption in their supply, they may not be resilient. Disruption to the fuel supply chain can be very damaging to fuel retailers' businesses and cause extensive disruption at sites.

8. Is the number of tanks the best way to define filling stations that could supply E10 alongside their current fuel range? If not, what would be a more appropriate metric?

Using the number of tanks is the most appropriate metric to determine which forecourts could supply E10 alongside their current range, and by setting the threshold at four tanks it takes into account the significant operational and financial burden that fuel retailers with less than four tanks to supply E10 alongside their current fuel range. However, as stated above there are challenges with assuming that the number of tanks directly correlates to whether a

forecourt can offer E10 alongside the current range. These should be taken into consideration to determine whether a forecourt should be mandated to supply E10 alongside E5.

9. What would the challenges and costs be to fuel retailers to sell an additional grade of fuel at appropriate filling stations?

As stated above, a fuel retailer could encounter a number of challenges with selling an additional grade of fuel. It is not as straight forward as mandating forecourts with four tanks to supply E10 alongside the current fuel range, and set out in response to Question 4, there are a range of challenges and costs to fuel retailers to sell an additional grade of fuel, including investment in infrastructure on site, and implications for fuel supply chain resilience. In addition, not all tanks will be registered under the forecourt's Petroleum Storage Certificate. Therefore, if these tanks are to be realigned to store petrol instead of diesel, the forecourt will be required to update their enforcement authority.

Fuel retailers are also required to ensure they provide their enforcement authority with at least 28 days' notice if any "prescribed material" changes to the site are likely to occur. These include ceasing the use of one or more petrol tanks, removal or permanently decommissioning one or more petrol tanks, and installing any new petrol tanks or pipework. All of which could occur if a fuel retailer sells an additional grade of fuel.

We would also encourage the Department for Transport to consider what support they can offer fuel retailers that do not meet the threshold to introduce E10. For these retailers, it may not be possible to introduce E10 on a voluntary basis without significant investment in infrastructure on site, such as installing additional tanks. For these retailers, they will continue to offer E5, which could mean a competitive disadvantage, particularly if the mandatory introduction of E10 was accompanied by a lower duty rate making E10 significantly cheaper.

12. Would a requirement to sell E10 at filling stations with more than four tanks have significant geographical discrepancies and challenges, particularly in relation to Northern Ireland? If so, what would be the challenges and how could they be mitigated?

There will be discrepancies for forecourts located in islands across the UK as they offer E0.

13. Given the need to keep 95 E5 available, do you agree with the general approach of making E10 available at suitable filling stations? If not, what would be your preferred solution?

We are supportive of a protection grade for E5, however, the fuel retailer should be allowed to determine whether they offer E5 as a Premium or Super grade.

There has been reluctance to introduce E10 voluntarily by industry due to the commercial risks associated with introducing a new fuel grade which consumers have limited confidence in and understanding of. There are fears that by introducing E10 on a voluntary basis, and especially since there is not compatible with all cars, customers may switch fuel retailers and leave forecourts investing in E10 at a competitive disadvantage.

Moreover, we do not believe that E10 will be introduced properly unless mandated. A voluntary approach could mean that oil companies would take different approaches and on different timescales in respect of E10 implementation. This has unintended consequences for independent chains as they will not be able to take a unified network position but will have regional differences based on supplier product availability. Therefore, if E10 is to be introduced, the government should mandate its introduction. This will ensure that there is a level playing field, where introducing E10 does not lead to a competitive disadvantage for fuel retailers.

14. Do you agree with our proposal to use the definition of Infrastructure Operator derived from the AFIR?

We agree broadly with the government's proposal to use the definition of Infrastructure Operator derived from the AFIR. However, there should be consideration on how this definition would apply to 'Commission Operator' sites. Commission operators are entrepreneurs, who have registered their own business and who partner with fuel retail groups to operator a forecourt convenience store on their premises.

We believe that the Infrastructure Operator definition should provide clarity on what is meant by "on behalf of third party". For example, in this instance would it be the fuel retail group (owner) or the Commission Operator (on behalf of third party) that would be responsible for the compliance? It is the assumption that it would be the responsibility of the fuel retail group.

We would also clarify whether in the definition that "person" should be amended to "business".

18. Do you understand what the requirements are, for instance if you are an obligated party and what you need to do to comply?

While the consultation document sets out the requirements of AFID and the UK specific standard, BS EN 16942, the consultation document itself is not practical guidance that fuel retailers can clearly follow. Currently, fuel retailers would be required to purchase BS EN 16942 to comply with the regulations. Therefore, alongside the government's response to the consultation, we believe the government should publish practical guidance for fuel retailers to comply to, particularly for small forecourt operators.

We would welcome clarity from the Department for Transport on whether AFID is in scope of the Primary Authority scheme. ACS has a Primary Authority Scheme (see Question 22), which provides tailored advice on regulatory compliance issues that specifically affect convenience store retailers and forecourt retailers. If AFID is determined in scope of the Primary Authority scheme, we will develop guidance which can communicate the new fuel labelling regulations to forecourt retailers. We would welcome engagement with the Department for Transport on our development of guidance for retailers.

19. Do you anticipate any operational issues with complying provided you have not less than 3 months' notice upon the publication of government response?

From consultation with fuel retailers, three months is not workable for sites to transition to the new fuel pump labelling requirements. The government must have consideration that businesses with a larger number of sites will need longer to transition to the new labels.

Therefore, we believe that six months would be an appropriate length of time for fuel retailers to prepare for implementation.

We would also like the Department for Transport to clarify whether they will be issuing more information or guidance ahead of the publication of the government's response to the consultation. This would allow for fuel retailers to prepare for the transition for a longer period than the 3 months' notice.

20. Are the enforcement proposals for fuel labelling clear and understandable? If not, which parts are not and why?

The enforcement proposals for fuel labelling are clear and understandable.

22. Do you agree with the penalty amounts proposed? If not, why and what levels would you propose?

We agree with the proposed penalty amounts for non-compliance with the Alternative Fuel Infrastructure Regulations. We would welcome reassurances from the Department for Transport that in the first instance of non-compliance with the regulations, an Infrastructure Operator would be issued a compliance notice where they are required to rectify the breach in the regulations within a specified period. We support the education over enforcement approach, particularly if there is a short turn around for implementation. We would also welcome reassurances from the Department for Transport to ensure that specified periods are proportionate to allow the Infrastructure Operator sufficient time to rectify the breach.

ACS has had its own Primary Authority scheme since 2014 in partnership with Surrey and Buckinghamshire Trading Standards which is accessible to the smallest convenience retail businesses. Currently our Assured Advice scheme includes 11 guides including a specific Assured Advice guide for forecourt retailers, '[Storing and Selling Fuel](#)'. We would welcome the opportunity to work with the Department for Transport on developing the additional guidance on the AFID labelling requirements.

23. Do you agree with the proposed change to the wording? If not, why, and can you suggest a suitable alternative?

We agree with the proposed change to the "suitable for most petrol vehicles registered since 2000" wording of the consumer message for E10. Fuel retailers and their staff should be made aware of the consumer messaging and implications of E10 to ensure consistent messaging following its introduction.

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