Spring 2017

NFDA
NATIONAL FRANCHISED DEALERS ASSOCIATION

The Voice

The Official **NFDA** magazine for the Industry

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NFDA Introduction from Sue

The new car market started strongly in 2017 despite the uncertainties posed by different factors including the new Vehicle Excise Duty rates coming into effect in April, the declaration of the Article 50 and the consequential possible changes to dealer agreements.

In February, we held a meeting at the House of Commons, where Chief Executives of a number franchised dealerships met with Ministers and MPs to discuss the future of the retail motor industry and its importance in the UK economy. This was followed by Driving Digital, where we looked into the future of automotive retailing and analysed the challenges and opportunities ahead.

On a day-to-day basis, we continue to support dealers with our alternative dispute resolution service, legal services, regional and national meetings, and are also putting together a workshop on the new General Data Protection Regulation (GDPR), which comes into force in May 2018.

If there is any specific issue that you would like us to cover, please contact louise.woods@rmif.co.uk.

Sue Robinson

NFDA Regional Meetings

The regional meetings are an opportunity for members to meet the NFDA, learn and discuss key topics.

The issues discussed include industry legislation and regulation, the new and used car markets, finance and insurance issues, changes to consumer legislation, MOT, and other business related issues.

Our members' contribution to the meetings is of value to us as it gives critical input to our lobbying activities with Government and manufacturers. In turn, these meetings offer members the opportunity to exchange views with fellow colleagues from a range of franchises and hear first-hand the work that the NFDA does for them.

The dates and venues for the next regional dealer forums are as follows:

MIDLAND
Hilton Northampton
- Tuesday 27 June
- Thursday 7 September
- Thursday 14 December

SOUTH WEST
Holiday Inn, Bristol
- Tuesday 13 June
- Tuesday 12 September
- Thursday 7 December

NORTHERN
Park Royal, Warrington
- Wednesday 21 June
- Tuesday 19 September
- Tuesday 5 December

SOUTHERN
Hilton, Cobham
- Thursday 15 June
- Thursday 14 September
- Tuesday 12 December

NORTH EASTERN
Holiday Inn, York
- Thursday 22 June
- Wednesday 20 September
- Wednesday 6 December

NFDA TRUCK & VAN NATIONAL TRUCK COUNCIL
201 Great Portland Street, London
- Wednesday 28 June
- Wednesday 27 September
- Wednesday 13 December

If you would like to attend a meeting, please contact louise.woods@rmif.co.uk.

NFDA Autumn Ball – Celebrating Automotive Excellence
(sponsored by Allianz)

The NFDA 2017 Autumn Ball will take place at The Grove in Chandler's Cross, Hertfordshire on Saturday 7 October 2017. For more information and to book your tickets, please contact louise.woods@rmif.co.uk or call 01788 538332.

NFDA MEMBERS MEET MPS AT THE HOUSE OF COMMONS

On Wednesday 8 February, the National Franchised Dealers Association (NFDA) hosted a dinner at the House of Commons, where franchised dealer Chief Executives had the opportunity to discuss with Ministers and MPs the future of the industry in the aftermath of Brexit. The key contribution of the retail motor sector to the UK economy was the theme of the dinner.

The dinner provided an excellent opportunity for discussion with the Government. The NFDA has outlined once again the crucial role that the retail automotive sector plays within the UK economy and the support the sector requires from Government policy specifically during the Brexit negotiations.

The automotive industry provides employment for over 800,000 people, with 504,000 of them working in the retail sector. In 2016, the top 200 franchised dealers had a combined turnover of over 61.3bn, with NFDA top 11 members accounting for nearly half of it.

The NFDA wants to ensure that the retail side of the UK automotive industry is supported and represented at the appropriate levels and this is another good step in our continued engagement with Government and Parliamentarians.

The NFDA welcomes... Thomas McLennan to the team

Thomas McLennan joined the NFDA on 18 October as Operations Officer to help support members and stakeholders.

Thomas was born in Cape Town in sunny South Africa. He studied business management, economics and law at an undergraduate level. He also holds a Master of Commerce (MCom) in Economic Development, both from the University of Cape Town. During his Master, Thomas' focus was on the expansion of the automotive industry in sub-Saharan Africa. He presented his work on this topic internationally and had it published. Thomas got hooked on the automotive industry and, following his graduation, decided to move to London. Joining the NFDA, an organisation focusing on advocacy, research and support, was a clear career choice. Thomas is passionate about his work and hopes to support the NFDA in reaching its focused goals.

Electric Vehicle suitability in Fleets

Sales of the latest generation of pure electric, extended range electric and plug in hybrid vehicles (collectively known as Ultra Low Emission Vehicles or ULEVs) are growing every year and by the end of 2016 there were over 80,000 ULEVs on the road in the UK. The benefits of ULEVs are clear, they provide low running costs, tax incentives and obvious environmental advantages, and they are fast becoming suitable for many drivers.

Despite this, there remains a lack of understanding about ULEVs amongst some car leasing and brokerage companies, and many franchised dealerships are not actively promoting the electric vehicles in their ranges. Energy Saving Trust is committed to bridging this gap in the vehicle supply chain and is offering a training package, fully subsidised by Department for Transport, for dealership staff to enhance their understanding of the technologies and importantly the features, benefits and aspects of vehicle use which need to be considered by potential electric vehicle owners. This will ensure electric vehicles are offered to the right customers who will be happy with their purchase. This offering will consist of a core training seminar, provided by EST staff with decades of combined industry experience, supported by materials, tools and content to support dealerships in their sales activity.

In addition to training for dealers, Energy Saving Trust has worked with fleets for many years analysing how they operate and identifying where energy, emissions and cost can be stripped out to increase efficiency and save money. Reviews can cover a wide range of a fleet's operation including company car and van policy, mileage and fuel reduction strategies, private fuel and business fuel management and grey fleet. Consultancy has also been extended to identify where ULEVs can fit in a fleet and be cost effective. Since 2012 over two hundred organisations have had a ULEV review and many have gone on to successfully adopt the vehicles. Energy Saving Trust's ULEV reviews are available free of charge for private and public sector organisations.

So what sort of organisation can and should use an electric vehicle? Grants are available for the purchase of vehicles and charge points and for company car drivers, significant company car tax savings are on offer. But the main benefit is the lower cost of fuel, so the more mileage driven the greater the saving. For pure electric vehicles this usually means cars and vans driven between 30 and 80 miles

a day, but it's important to keep up to date with developments as vehicle range is increasing rapidly as is the speed at which vehicles can be charged. A good guide to the fuel savings on offer is £100 saving per 1,000 miles driven – so a fleet of 20 electric vehicles driven 10,000 miles a year would save the business around £20,000. For businesses based in London add in the 100% London Congestion Charge discount and any vehicle price or lease cost premium is soon covered.

It's also important for fleets to understand the charging infrastructure required to charge their vehicles and this needs to be considered from the outset. Intelligent charging infrastructure can assist with managing electricity demand on site, keeping any upgrade costs to the minimum and in the case of an office car park, being able to identify company car drivers, employers and visitors to understand usage and to enable recharge costs to individuals or cost centres as appropriate.

For further details on the dealer training and consultancy get in contact with Energy Saving Trust (transportadvice@est.org.uk) or visit their website www.energysavingtrust.org.uk/business/transport. Both services are fully subsidised by Department for Transport.

UK Economic Outlook

The economic outlook of the UK continues to be dominated by Brexit and the uncertainty attached to it. Recently, there have been some significant developments. Most notably, Prime Minister Theresa May's speech on 17 January, the Supreme Court verdict on 24 January and the ongoing passage of the European Union (Notification Of Withdrawal) Bill (Brexit Bill) through Parliament. In addition, it seems that the impact of Brexit on the UK economy has been nowhere near as severe as predictions

UK GDP Growth Rate

Economic performance was stronger than expected for the tail end of 2016 with GDP growth of 0.7% in the fourth quarter. In its entirety, 2016 saw a growth of 1.8% beating post Brexit estimates, but below 2015's 2.2%. Notably, estimates for GDP growth in 2017 have been twice upgraded by Bank of England (the Bank), from 0.8% to 1.4% and most recently to 2%. Forecasts for 2018 and 2019 were both also upgraded in the February report to 1.6% and 1.7% respectively. The recalculations by the Bank are driven by Brexit not affecting consumer confidence as much as was expected.

Interest Rates

Interest rates are currently at an all-time low of 0.25%. There are contradictory pressures on interest rates and it is not yet clear whether they will move in 2017. If consumption spending weakens and growth slows, the Bank is likely to hold rates at their low level. Conversely, inflationary pressures are traditionally combatted by raising interest rates. Due to the low rate of wage growth, despite low unemployment, current inflationary pressures are being driven by Sterling weakness and not the overheating of the economy. This suggest that the interest rate will stay low. This is supported by the Bank revising its growth forecast, as well as expecting low unemployment levels and keeping its inflation estimates constant.

Employment Rate

Employment and unemployment figures were very positive for the most recent statistical period of October to December 2016. The employment rate of 74.6% is an increase on the period before and the highest since records began in 1971. The unemployment rate is unchanged from the previous period (4.8%), which is the lowest it has been since 2005. Employment grew by 37,000 compared with the period of July to September 2016. Average weekly earnings grew by 2.6%, slightly lower than the preceding period. This wage growth is not at a level that would be expected with such low levels of unemployment. In response, the Bank has changed what it believes to be the level of equilibrium unemployment for the UK economy, from 5% to 4 - 4.7%.

Currency trends

Sterling depreciation post the Brexit vote continues to be the biggest tangible impact that the decision to leave the EU has had on most UK consumers. Uncertainty surrounding the impact on the UK economy of Brexit has been the dominant cause of Sterling weakness and instability. This has seen Sterling rally or fall with most major Brexit related events. These have included the PM's Brexit speech on 17 January, the Supreme Court verdict, the PM's decision to publish a Brexit White Paper, and the various stages of the Brexit Bill passing through Parliament. The end to Sterling's volatility is unlikely to happen in the short term with the Article 50 yet to be triggered and the ensuing Brexit negotiations.

Inflation rate

Inflation has continued to increase but not quite at the rate expected by analysts, with the annual rate in January 2017 growing by 1.8%, below the 1.9% expected. This is a two and a half year high for the UK and inflation has now more than trebled from its pre-Brexit vote level of 0.5% in June 2016. This is still below the 2% inflation target of the Bank and well below historic levels. However, this is not expected to last with producer price inflation reaching 3.5% in January 2017, a five-year high and a sign of possible higher consumer inflation to come. This view is echoed by the Bank, which expects inflation to move beyond its 2% target, reaching 2.7% in 2017 and peaking at 2.8% in 2018, driven by the weakness of Sterling. Slow wage growth and the expected continued increases in the inflation rate mean that consumers will soon begin to feel pressure on their real incomes.

Automotive Manufacturing

UK car production reached a 17-year high in 2016. There were just over 1.7 million cars produced, a growth of 8.5% on 2015. The export production grew faster than production for the domestic market. Exports increased by 10.3% in 2016 to 1.35 million vehicles, beating the record export levels of 2015. Production for the domestic market increased by a much smaller 2.4% to 368,482 vehicles. This trend has intensified in January 2017 with production for the domestic market shrinking by 3.6% compared with January 2016, while the total cars produced in January were a nine-year high and export production grew by 10.8%.

In general, Sterling weakness has led export optimism in manufacturing with both domestic and export manufacturing orders growing rapidly. Investment levels in automotive manufacturing have unfortunately dropped post-Brexit, from £2.5 billion in 2015 to £1.66 billion in 2016.

New car market

The new car market in the UK performed exceptionally well in 2016, reaching a record high of 2.69 million registrations. The year was 2.3% up on 2015 and marks the fifth year of growth in new vehicle sales. This growth was driven by fleet purchases, with both private and business purchases declining in 2016. However, January 2017 saw the growth in private purchases outstrip fleet growth of 2016 continue. This strong performance could see a decline in April after the changes to VED rates.

Possible Impact for NFDA Members

In the immediate term, the most important economic issue for automotive retailing sector continues to be the weakness of Sterling and the associated increase in the cost of imported cars. Imports account for over 85% of the new cars sold in the UK so these costs will be market wide.

Rising inflation is a possible future concern for retailers. It is expected that consumers will start to have their real incomes stretched with rising prices and weak wage growth. Much of the future stability of Sterling and the associated cost of imported cars relies on how Brexit negotiations proceed. Whether the PM and Government are able to achieve the goals set out in the White Paper, will be decisive for the future of the UK. Until Article 50 is triggered, probably by the end of March, and the negotiations start to take shape, too much remains uncertain as to whether this is achievable.

NO FOOLING!

April 1st Tax inceases are here.

VED Reform: New vehicle tax rates

For new vehicles registered on or after 1 April 2017, first year vehicle licence rates will be based on carbon dioxide (CO2) emissions of the vehicle. These rates will be changed on 1 April 2017 with revised CO2 ranges.

For subsequent years, and also if the registered keeper changes, a flat Standard Rate (SR) of £140 will apply unless the vehicle has zero emission, in which case the rate will be £0. Electric tax class cars will pay a nil rate of tax (unless the original list price of the vehicle exceeds £40,000), whereas hybrid and alternative fuel vehicles registered after 1 April 2017 will receive a £10 reduction on the cost of their tax.

Vehicles over £40,000

For vehicles with a list price over £40,000 at first registration, there will be a supplement of £310 per year in addition to the standard £140 VED cost, giving a total cost of £450. This will be in effect for the first five years of the car's life. After five years of the surcharged rate (£140+£310), the vehicle tax will revert back to the standard rate of £140 a year. The additional charge will also be applicable if the keeper is changed within the first five years.

Please see below the new vehicle tax rates for Petrol and Diesel vehicles:

Current Tax/VED rates to March 2017				New Tax/VED rates from April 2017			
Tax Band	Co2	First Tax	Std VED	New Tax band	Co2	First Tax	Std VED
A	under 100	£0	£0	A	0	£0	£0
B	101-110	£0	£20	B	1 -50	£10	£140
C	111-120	£0	£30	C	51-75	£25	£140
D	121-130	£0	£110	D	76-90	£100	£140
E	131-140	£130	£130	E	91-100	£120	£140
F	141-150	£145	£145	F	101-110	£140	£140
G	151-165	£185	£185	G	111-130	£160	£140
H	166-175	£300	£210	H	131-150	£200	£140
I	176-185	£355	£230	I	151-170	£500	£140
J	186-200	£500	£270	J	171-190	£800	£140
K	201-225	£650	£295	K	191-225	£1,200	£140
L	226-255	£885	£500	L	226-255	£1,700	£140
M	over 255	£1,120	£515	M	over 255	£2,000	£140

Price list

The list price is the individual retail price published by the manufacturer, importer or distributor for the vehicle when sold in the UK prior to any dealer discounts. The list price must be provided as it stands on the day before the date on which the vehicle will be licensed and registered. Manufacturers who allow 'price protection' for their customers, cannot price protect the VED rate. Where a vehicle does not have a UK list price the notional price must be provided.

What 'list price' or 'notional price' includes

The list price or notional price includes the price of any non-standard option fitted by the manufacturer before delivery to the dealer/retailer. The list price also includes any delivery charges for the vehicle, including any pre-delivery inspection costs (PDI) and VAT.

What 'list price' or 'notional price' does not include

Any non-standard options fitted by the dealer/retailer are not included in the list price. Also any incentive options such as track days, servicing or warranties.

Refund of first year licences

Refunds for first year licences will continue to be processed in the same way as they are now.

Cars with a list price under £40,000

For cars with CO2 emissions of 100g/km or below, the refund would be based on the first year licence actually paid. Cars with CO2 emissions above 101g/km would have a refund based on the £140 rate.

Cars with a list price over £40,000

For cars with CO2 emissions of 150g/km or below, the refund will be based on the first year licence actually paid. Cars with CO2 emissions above 151g/km would have a refund based on the £450 rate.

Carwow – the CMA and BMW broker an understanding

The UK competition watchdog, the Competition and Markets Authority (CMA), has confirmed that it will not pursue an investigation into a complaint from online car buying platform, Carwow, that BMW UK acted in breach of competition law by restricting its franchised dealers from listing BMW and MINI cars on its portal. However, importantly, the announcement follows BMW's recent decision to permit the use of such platforms by its dealers following discussions between the CMA and BMW.

As many dealers know, Carwow's portal allows consumers to compare car reviews; more importantly, Carwow allows consumers to obtain quotes for new cars matching the consumer's desired specification from dealers who have responded to that consumer's (Carwow) email account. Carwow works on a reverse auction type model. Any resulting car sales are concluded directly between the consumer and the chosen dealer.

BMW's policy change has been welcomed by Carwow and the CMA. The CMA is particularly focused on promoting online trade and sees the likes of Carwow as intensifying price competition at the retail level for the benefit of consumers on a national basis (although it is perhaps more often the case that quotes received are used as a bargaining chip in negotiations with local dealers rather than driving national competition).

While more freedom for dealers to exploit online sales models may be welcome, particularly where dealers might need to meet manufacturer sales targets, dealer reaction to the CMA's announcement is likely to be mixed.

Certain franchised dealers, while supportive of greater competition for the benefit of consumers and highly invested in customer care, see the rise of platforms, like Carwow, as placing a further strain on the profitability of a sector which is already characterised by very keen margins. As Carwow becomes more influential, this pressure is likely to increase, as may its commissions, particularly if Carwow's growth is unconstrained by new entrants.

For manufacturers, the implications of this development may also give rise to some anxiety; there are advantages and disadvantages in permitting dealers' use of such portals. On the plus side, Carwow may drive early volume growth, and access to a pool of ready-to-buy consumers is always tempting; the flip side comprises concerns that sales through such portals will commoditise the product and diminish the perceived quality of certain brands. Further, at some point and depending on how the sector develops, manufacturers may have to revisit their own pricing model, to help ensure that dealers have access to an improved margin which allows for investment and sustainable growth, as opposed to placing further pressure on after-sales.

As the CMA has not pursued the investigation (or, as a result, issued a case closure summary or an infringement decision), the matter is not binding on manufacturers, although it is doubtful that any manufacturer will disregard the CMA's present approach and risk investigation. Unfortunately, the lack of any reasoned decision etc. also means that the rationale behind the CMA's challenge, and any counter-arguments that BMW may have advanced to justify its original position, remain unclear.

It is possible that the CMA raised general concerns that restrictions relating to the use of an online platform could constitute a restriction of passive sales in contravention of competition law, which would be difficult to justify by reference to qualitative standards (on the basis that participating dealers would already satisfy BMW's standards). At the same time, it is not clear what weight, if any, the CMA might have given to counter arguments, including any that may have questioned whether Carwow was, in fact, an agent (a genuine authorised intermediary) of the customer.

In any case, at this stage, the legal arguments are moot; greater importance lies in the commercial ramifications of the development, how it might affect the evolution of the market, how Carwow might itself develop and the competitive response of manufacturers and dealers, including the emergence of rival platforms. It follows that the impact of the CMA's and BMW's approach may have more important longer term implications for the sector than the CMA's recent brief press release would suggest.

Prepared for the NFDA by Charlotte Mapston, Solicitor, TLT LLP and Miles Trower, Partner and Head of Competition. Please contact the authors for further information. This publication reflects the personal perspectives of the authors and not the views of TLT LLP. It is intended for general reference/guidance only. Specific advice should be sought for specific cases. For more information see TLT LLP's terms & conditions.

"We are in for another good year, nowhere near as dull as expected"

The Voice interviews Trevor Finn, Chief Executive of Pendragon

Continuing our series of interviews with leaders in the sector, we are delighted to have caught up with Trevor Finn, Chief Executive of Pendragon to get his views on the year ahead.

We started by asking Trevor what he thought were the biggest challenges facing the sector.

"The biggest challenge is judging the right balance between on and offline. Many big retailers in general are struggling as they are over-committed to fixed assets, despite more and more of their business being conducted online. It really is a big challenge for companies like Homebase, who have huge physical assets and we have seen other retailers pull back on store developments as their business shifts.

In our sector, it is up to manufacturers to take the lead. At the moment, we are seeing some movements and opposing strategies, leaving it unclear where to strike the balance, as these strategies contradict each other. At the same time as being asked to invest huge sums in physical premises, other methods are being tested, some of which could be better for both retailers and manufacturers alike."

We asked if this meant a greater concentration on used car operations, or indeed, larger territories.

"Not necessarily. Although there has, without doubt, been a slow, but progressive decline in the number of franchised outlets. The model is changing and it is less about territory and more about facilities, what and where. Given the cost of distribution, it is hard to see how stand-alone new car retailing would be sustainable."

Will these changes be accelerated by BREXIT?

"I do not see a direct link between the two, not at this moment in time. Dealers will take on franchises based on being able to afford what the manufacturers want to achieve. For the same reason, I do not see the market, based on today, being any less than it was last year. Based on today, the market will not be down. Those cars are coming and the targets remain significant and there is normally at least a loose correlation between sales objectives and supply."

Does this market offer opportunities for big groups to flourish?

"No more than last year or the year before. Manufacturers will support the distribution network and the cars will get sold. It does seem to me that the circumstances are still right for acquisitions. Supply of capital is the key. We are really reliant on interest rates remaining low. If things go well, the economics are simple, if you can borrow at 5% and make 10% from the right business, the economics are favourable."

There has been talk about how difficult it is to get youth into the industry, do you have difficulty recruiting?

"We do not have difficulty in recruiting. We have a massive graduate programme, I think around 100 graduates per year. You have just got to be organised to do it. The real challenge is the merry-go-round of people already in the industry and part of the solution to that has to be increasing the supply of good people coming in."

So it is going to be a strong market with benign economic circumstances and lots of graduate recruitment. Will BREXIT knock us off-course?

"It is difficult to say. So far the effect on imports and interest rates has been muted. It all depends where we end up, most likely in some sort of tariff-free exchange of access for the city in return for no tariffs on imported vehicles. In the end, interest rates will be more critical than changes in our relationship with the EU."

What advice would you give to people with ambition for the year ahead?

"It is fairly straight forward working in a business, make yourself the obvious choice for when someone moves. When opportunity comes, be happy in every detail of what the role entails. Be clear what you want to achieve and step up to the role. Present and carry yourself so that you are the obvious choice for the position.

We are in for another good year, nowhere near as dull as expected. My advice would be not to spend too much time being distracted by things you cannot control."

The Prime Minister's Brexit Speech

In January, the Prime Minister Theresa May outlined the Government's plans for the UK's Brexit negotiations.

The PM stated that she wants a "clean" Brexit, meaning that Britain will quit the single market and seek to trade as freely as possible with other EU countries. She confirmed the Government's intention to secure the greatest possible access to the market through a new 'comprehensive, bold and ambitious free trade agreement'.

Key dates:

- Late January 2016: Result of Article 50 Supreme Court case
- March 2017: UK triggers Article 50 starting 2-year limit
- 2017-2019: Negotiations begin with UK and EU March 2019: UK leaves the EU

The 12 key objectives, driven by four principles, outlined by the Prime Minister were:

Certainty and clarity

1. As much certainty as possible
The PM stated that negotiations will be clear. As much certainty as possible will be provided as the Government moves through the process.

A stronger Britain

2. UK to control UK's laws
Britain would no longer be under the jurisdiction of the European Court of Justice after Brexit. UK's laws will be made in Westminster, Edinburgh, Cardiff and Belfast.

3. The Customs Union
The UK will no longer be an EU member state, however May addressed the possibility of associate membership. One of the objectives pointed out by May will also be to strengthen the union between the four nations of the United Kingdom

4. Common Travel Area
The PM stated that maintaining the Common Travel Area with the Republic of Ireland will be a priority.

A fairer Britain

5. Control over immigration
The UK will get control of the number of people coming to Britain from the EU. "Controlled immigration can bring great benefits", said the PM.

6. Right to remain for UK nationals living abroad and EU nationals living in the UK
May wants to give EU nationals currently living in the UK, as well as British expats in Europe, assurances that they will have the right to stay in the country indefinitely.

7. Protecting workers' rights
One of the PM's priorities is to protect and maintain workers' rights. These include rules such as 48-hour weeks, 20 days of paid leave, and 14 weeks maternity leave for women.

A truly Global Britain

8. A trade deal with the EU
May confirmed that the UK will leave the single market and that the UK will pursue "a bold and ambitious Free Trade Agreement with the European Union."

9. Trade deals with other countries (outside the European bloc)
May stated that she wants Britain to be able to negotiate its own trade agreements with countries outside Europe and added that she wants to remove as many barriers to trade as possible

10. Continuing to lead on science and innovation
May said that the UK will remain a top destination for science, research and innovation. Agreements to continue to collaborate with European partners on science, research, and technology initiatives will be welcomed.

11. Continued cooperation on crime
Britain will continue to cooperate with its European partners in key areas such as crime, terrorism and foreign affairs.

12. A gradual implementation process
New arrangements will be phased in gradually to give businesses enough time to plan their future and avoid a disruptive cliff-edge.

These details about the Government's Brexit strategy will allow businesses to start planning their future. During this transition period, it is vital that the UK economy remains stable and businesses are given certainty. The NFDA will continue to work with the Government to ensure that the retail motor sector is recognised as a key segment of the UK economy and its interests are safeguarded.

General Data Protection Regulation – A High-Level Compliance View

General Data Protection Regulation (GDPR) is something that all dealers will come to see more often in the months ahead as the market comes to terms with the implications of the forthcoming changes, which come into force from May 25th 2018. In the world of motor retailing this may seem an age away, but is an item that needs to go onto the agenda now for a number of reasons:

1. It has implications for customer retention and lifetime value activities.
2. The data you already hold may not be appropriately 'consented'
3. That same data may be too old to be used going forward.
4. You will need to establish new processes and protocols to comply with GDPR.
5. You should explore how you share data with other partners.

And there is a challenge with achieving all of this; the Information Commissioners Office (ICO) is still finalising exactly what is required and the scope. Social media, by way of example, is a notable grey area. However, I believe it is appropriate to start acting on what we do know and ensure you and your team are starting to think about the challenge ahead – and that you engage with your support partners to ensure they are on, or getting onto the same page.

So, what do we know? – A few brief highlights

The first thing to confirm is that while this is a piece of EU legislation aimed at EU citizens, the UK plans to enact it and as such Brexit plans will make little or no difference. In a global village, accelerated by digitisation the wider world is looking to create a data protection standard and it seems this will mean the UK will fully support GDPR.

The regulation (and it is regulation, not a directive) will apply to consumers and businesses, the latter being an addition to the current requirements.

If the customer's data is used for any direct marketing, including electronically, or for data processing, then consent must be sought. There are some potential exceptions here for dealers; social media as noted previously, apps that collect data and online cookies being examples yet to be clarified.

Dealers will need to gain the explicit consent of customers to be able to use their data and this will mean identifying exactly what the scope of usage will be and what, if any, data sharing will take place. Dealers can only use the data for the consented purposes.

Data 'minimisation' principle - if a customer requests that their personal data is removed for marketing purposes, dealers must act swiftly. Further, they should not hold a customer's data for any longer than is necessary.

The end of a finance agreement period or sale of a car stand out as potential triggers for a dealer to delete a customer's data, but the dealer may not be aware of all such changes. To mitigate against potential problems, dealers could adopt a 'dormant customer' approach, removing customers from whom they have had no contact for an extended period, for example, five years. Another option could be adding a 'contact for marketing purposes until further notice' clause to customer data permissions.

Responsibility will now lie with data processors as well as controllers

The Potential 'Green shoots' for dealers

The regulation does provide that consent may not be required in all circumstances; three areas should be noted:

1. Where it is necessary for performance of a contract.
2. When it is necessary as a legal obligation.
3. To protect vital interests of the data subject.

The first two are reasonably clear and could extend to areas such as finance proposals (although if an agreement does not proceed data should be deleted without express consent). It is the third area that provides some potential leeway.

Contacting a customer for warranty work, servicing, MOTs, GAP cross-sell, warranty renewal, and the end of a PCP agreement are potential examples where a dealer could be seen to be working to protect the customer's interests. Encouraging, but this still leaves some areas of today's typical direct marketing that could fall outside of the 'vital interests' criteria; an open evening, new car launch and newsletter/e-zine may not be seen as 'vital' help.

Some steps to consider now

The most obvious step would be to embrace GDPR now. Accept that gaining explicit consent and being able to prove you have that consent is a core process. It seems likely that increasingly customers will get used to providing this to a very wide range of organisations. They may well think it is odd initially and some will invariably 'opt out', but for many, it will become second nature quite quickly.

Next, look at the data you already hold, clean it and if it is notably aged either try and seek consent to continue usage or delete it. Stay abreast of developments. It seems likely that the ICO will provide greater clarity as the year progresses and especially digitally things will become clearer. Please note the NFDA aims to be a source of information and seek out insights from your partners. Frustratingly, there will be differences of opinion in this area. We have seen it before in regulatory change and being agile will be important.

Ensure your data controllers and processes know what is expected of them and help them to develop rigorous processes.

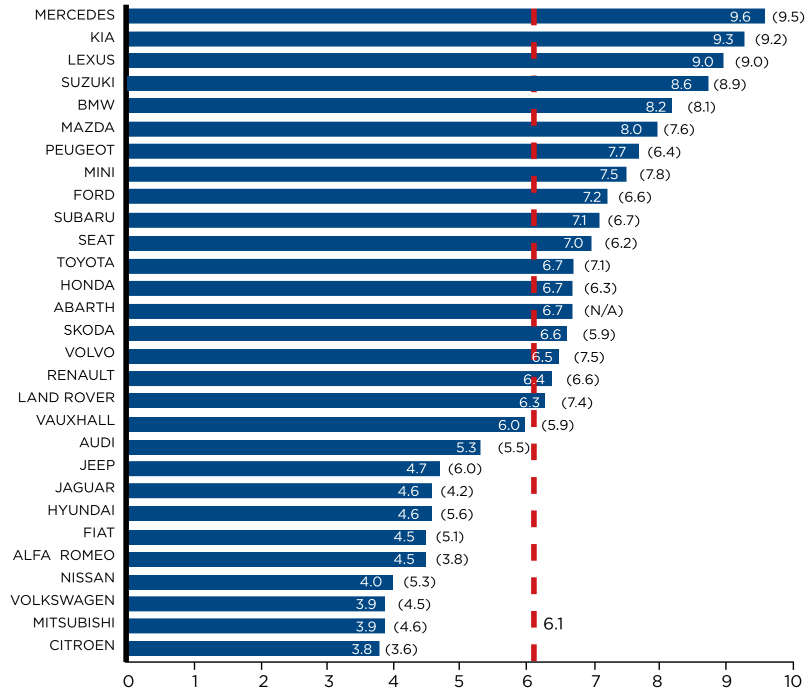
Finally, don't leave it too late to adapt and change. Anyone who has ever tried to cleanse a dealer database will quickly inform you how time-consuming it can be.

NFDA WINTER 2017 DEALER ATTITUDE SURVEY

The results of the NFDA Winter 2017 Dealer Attitude Survey were revealed on Monday 6 March. The NFDA carries out the Dealer Attitude Survey on a twice-yearly basis. The results show the general health of the dealer/manufacturer relationship, indicating potential difficulties and highlighting where there are strong and constructive working relationships between dealers and manufacturers.

Respondents are asked a series of questions covering a range of business aspects and their impact on the manufacturer relationship. Responses are scored from 1 (extremely dissatisfied) to 10 (extremely satisfied). This survey, which was conducted in January 2017, had 1,704 respondents from a total of 29 participating franchise networks, which equates to a response rate of 41%.

The all-important question asking dealers how would they rate their manufacturers overall of 1 to 10, saw a slight decline compared with last summer's survey (6.1 vs 6.2), but it stands at the same level as the summer 2016 survey.



- Mercedes was once again the highest scoring franchise with an average score of 9.6. This has grown again by 0.1 points compared to the summer and it is 0.2 points higher than in the same period last year.
- Kia has consolidated its second position with a further improvement of 0.1 points to a total of 9.3. This follows a 0.8 points increase recorded last summer compared with the previous survey.
- Lexus is the third placed franchise with a total of 9.0 points, which is unchanged from last summer.
- Suzuki and BMW close out the top five with 8.6 and 8.2 points respectively.
- The least valued franchises by respondents are Citroen (3.8), Mitsubishi (3.9), Volkswagen (3.9) and Nissan (4.0). Apart from Citroen, which saw its score improving by 0.2 points, the other three have experienced significant declines.

A number of manufacturers have clearly taken into consideration previous negative scores and improved their position, showing that strengthening the dealer-manufacturer relationship requires effort, but is achievable.

Dealer networks such as Mercedes and Kia have consistently performed well over the last few years, but it is also positive to see that other networks, such as Peugeot and Mazda, have shown significant increases in score across the large majority of questions within the survey.

However, average scores for the majority of the questions have generally worsened. In such a critical period, it is fundamental that manufacturers and dealers continue to constructively work together towards the same ultimate objective which is ensuring that the automotive industry is well represented at all levels and continues to thrive.

Please visit www.nfda-uk.co.uk/reporting/dealer-attitude-survey/ to access the full report of the survey.

*Scores are from 1 (extremely dissatisfied) to 10 (extremely satisfied)

RMI Employment Law bulletin - March 2017

RMI Employment Law Newsletter

In this bulletin, MILS aims to keep you up to date on some of the latest developments in employment law, highlighting some key areas of change for motor industry employers.

Legislation

Draft Finance Bill 2017

On 5th December 2016, HMRC published draft clauses for the Finance Bill 2017. Key points of interest for employers include changes to the taxation of termination payments, restrictions to salary sacrifice benefits and the removal of the tax relief associated with employee shareholder status. The draft legislation is open to consultation until 1st February 2017 and the final contents of the Bill will be confirmed in the Spring 2017 budget. The aim of consultation is to ensure that the legislation works as intended. We will report on this further in due course.

Final Gender Pay Gap Regulations published

The final version of the Gender Pay Gap Regulations, which come into force on 6th April 2017 was finally published on 6th December 2016 setting out how employers should calculate and report on the gender pay gap within their business from April 2017. The final regulations clarify some points such as: who is in scope; how to calculate pay and reporting obligations on bonuses.

What must employers publish?

In brief, under the Regulations employers will be required to publish the following:

1. The difference between the median and mean hourly rate of "full pay" for male and female relevant employees during the relevant pay period (which will include a pro rata proportion of any bonus paid in any relevant pay period);
2. The difference between the median and mean bonuses paid to male and female relevant employees in the year ending with the new snapshot date;
3 Proportions of male and female relevant employees who received a bonus; and
4. Proportions of male and female relevant employees in each pay quartile.

How will the regulations be enforced?

The previous draft had been criticised for having a lack of enforcement powers. The notes that accompany the new draft regulations now suggest any employer's failure to comply with their obligations under the regulations will amount to an "unlawful act" and under which the Equality and Human Rights Commission (EHRC) could potentially take action. However, it is still not clear how much enforcement EHRC will actually implement due to a lack of resources.

Modern Slavery Bill 2016 progresses to House of Commons

The Modern Slavery Bill 2016 requires both commercial and public organisations to include a statement on slavery and human trafficking in their annual report. The Bill has now undergone all three readings in the House of Lords and had the first reading in the House of Commons on 30th November 2016. The second House of Commons reading was scheduled for 13th January 2017 with hopes that the Act will receive Royal assent later in 2017.

Recent case law developments

Disability: long term stress

Does long term stress amount to a disability?

In the case of Herry v Dudley MBC the Employment Appeal Tribunal (EAT) said no, not without something else. In this particular case, the Claimant failed to establish a mental impairment or to show substantial impact, presenting little or no evidence that the stress had any impact on normal day to day activities. Conducting litigation or giving evidence at an employment tribunal were not considered to be normal day to day activities because they do not affect participation in professional life. Whilst again this case gives employers some comfort, each case will obviously turn on its own facts and it may be that in some cases stress does indeed amount to a disability within the meaning of the Equality Act.

Medical evidence not required for personal injury awards in Tribunal

The EAT has also recently held that a suspension meeting amounted to an act of unlawful discrimination because of the manner in which it was conducted. This was in the case of Hampshire County Council v Wyatt. The EAT held that whilst it is advisable for claimants to obtain medical evidence of personal injury in such claims, there is no legal principle preventing an award from being made in the absence of expert medical evidence. Employers should therefore ensure that communications around suspension are always handled with sensitivity to the employee's needs. The Claimant in this case was dyslexic and the employer failed to make reasonable adjustments by explaining matters carefully and slowly. As such, she did not understand the meeting and was under the impression she was losing her job because of the dyslexia.

In the News

Businesses unaware employment tribunal verdicts will be made public in 2017

Most employers have yet to consider major implications in the reporting of employment tribunal verdicts, and we anticipate companies could feel compelled to settle out of court, or might even introduce blacklists of litigants, as a result. Any member of the public will be able to search on line for tribunal judgments, by company name or topic, from a yet to be determined date in early 2017. At present, judgments are only available by request or in person from HM Courts and Tribunal Service (HMCTS). It will only apply to judgments this year when the system goes live.

There is real concern that employers may fear significant brand and reputational damage from verdicts being made available. This development is clearly something employers will have to bear in mind when deciding whether to consider comprising or settling potential or actual claims.

Guidance

Consultation on work, health and disability

The Government has launched a consultation on work, health and disability as part of the Improving Lives Green Paper. Its aim is to better understand why a disabled person and those with long term health conditions are less able to acquire and keep jobs. The Government wants to acknowledge the wide range of experiences which these individuals face and how best to improve the system to enable them to work. There are fewer than 5 and 10 disabled people in employment, compared to 8 in 10 non disabled people.

New ACAS guidance on anxiety and seasonal issues

ACAS has published new guidance on anxiety for managers and employees which gives top tips on how to handle mental health in the workplace. Managers should be properly trained with the skills they need to support staff that may be experiencing anxiety at work. The advisory body has also produced guidance on winter workplace issues for employers, which includes advice on whether there is a requirement to pay staff if they can't come to work because of flooding or snow. For further details, please refer to the ACAS website.

UK New Car Market: What To Expect

Figures released in January by the SMMT confirmed that the new car market reached a record 2.69 million units registered in 2016 - an increase of 2.3% on the previous year, marking the fifth consecutive year of growth.

While these results seem to reveal a very positive picture, there is always speculation on how figures are achieved. The stabilisation towards the end of the year, including the decline of -1.1% in December and the negative trend of private demand, might foretell a less rosy future for the car market in 2017.

Moreover, while fleet sales have driven the growth in 2016, with an increase of 4.8% in the year, private registrations have fallen -0.2%, confirming the downward trend seen in the last three quarters of the year.

A number of factors indicated that consumer confidence has remained fairly stable in the aftermath of the EU referendum, however, many suggest that we have not seen the real implications of Brexit yet.

In the beginning of 2017 the market has remained strong. A number of factors including low interest rates, attractive finance packages and the plate change in March will continue to support consumer confidence.

Several customers are expected to bring their purchases forward to before 1 April 2017, when the new DVLA vehicle tax rates will come into force. In the majority of the cases, these new rates will mean an increase in the first year vehicle tax. Highly polluting vehicles and those with a list price over £40,000, which will attract higher taxes with the new DVLA rates, are likely to be the most impacted.

Industry experts are generally suggesting a lower number of registrations in 2017. They believe that the UK new car market has reached its peak and a slowdown will be natural. The majority expects a decline of between -5% to -15%. Few different factors will play a key role over the next few months and it remains complicated to make precise predictions.

The weakening of sterling against euro and US dollar and the consequential increase in UK inflation rates are likely to cause an increase in new car prices. It is difficult to quantify this increase, but we expect the rise to be in-line or just above the inflation rate. While a weaker sterling will push up the cost of imports making consumer goods and raw materials more expensive, it might also help UK exports attract further overseas interest.

Our sector is resilient and used to coping with challenging situations, but it is vital that the Government continues to monitor the health of the economy and, where needed, puts measures in place to safeguard the interests of the retail motor industry and other UK's businesses.

Driving Digital 2017

Now in its 5th year, Driving Digital has established itself as a key event in the automotive calendar. We have always enjoyed the support of excellent speakers, and this year's event was no exception.

Nathan Coe from Auto Trader revealed the direct link between stock turn and profitability, and how correctly pricing a car on day 1 helps improve your margin.

Scott Sinclair from Google talked about the multiple touch points or micro-moments in today's consumer, who lives online and the importance of relevance and measurement to connect the dots with car buyers.

Neil Addley from Trusted Dealers demonstrated how the trusted consumer, more mature and affluent drivers, are targeted by Trusted Dealers with a view to generating more leads into franchised dealers in potentially uncertain economic times.

Eddie Hawthorne from Arnold Clark gave a thought-provoking presentation on how Arnold Clark is using apprenticeships and training to bring new talent into the business. This involves technicians, showroom hosts, product geniuses and reflects an admission to increase the diversity of recruitment, as well as customer satisfaction.

Nick King from Auto Trader gave us a tour de force on change in websites over the past 2 decades and revealed how consumers trust peer reviews, 'people like me', over those in the media and authority.

Mark Squires, Chairman NFDA rounded up the event with his views on how the franchise mode will evolve to cater for customers' needs and how franchised dealers can be at the forefront of change, rather than victims of it.

Nearly 200 delegates joined us for our 7th Driving Digital event at Villa Park in Birmingham and we are already starting planning for next year.

If you would like to see the presentation from Driving Digital please email lois@trusteddealers.co.uk for your copy.