

IMPROVING AIR QUALITY

Taxi drivers have heard much about air quality over the past few years, with many of them having to pay for conversions on the cabs to bring them to the required standard demanded by Ken Livingstone's regime. Now Mayor Boris Johnson has said that he wants London to be recognised as a world leader in improving the environment locally and globally, by tackling climate change, reducing pollution, developing a low carbon economy, consuming fewer resources and using resources more effectively. The 'Mayor's Transport Strategy' a "Clean Air Strategy" is said to be going out for consultation in the autumn and the PCO Carriage Office make their recommendations with regard to what should be done regarding taxi emissions.

But it is just a few months since the last cab was converted to meet the previous Mayor's policy. Now there could be further changes to taxi regulations to meet Boris's transport strategy. At this stage this is not about achieving a specific Euro standard such as Euro 4; it is about the Mayor wanting to generally raise 'Air Quality' in London. The PCO have met with a number of people and trade organisations within the taxi trade – many of them are concerned that the trade would be penalised with higher costs through any changes.

Options the Carriage Office discussed with trade organisations include...

- * An age limit of twelve to fifteen years for all cabs.
- * To take all Fairways and TXIs off the road.
- * Further emission conversions for all TXIIs to Euro Four if a unit is available.
- * Stop start technology
- * Electric Vehicles
- * Encourage manufacturers to increase fuel efficiency.
- * Do nothing and let TFL pay the fine for poor air quality
- * Look at Bio-diesel options.

The Executive of the LMCPA have made clear their concerns to the PCO and stated that in view of the Olympics due in 2012 it would be unwise to take any older cabs off the road, especially as the trade has spent about 60 million pounds converting them to Euro 3 a short while ago, and it was the older generation that were driving the old taxis who could not afford to buy new Euro 4 taxis. They also stated that drivers and taxi fleets were only just starting to recuperate from the enormous expense they encountered doing the previous conversions. One garage owner said: "When drivers paid me for the last conversion they were told it would last the life of the cab... because that's what the Carriage office told me. How can they talk about them taking their cabs off the road only thirteen months later."

Another issue of concern is despite the assurances from authorities last time that only companies who could give the trade a sustainable after service would be approved by the PCO to supply conversion kits, two of the companies went into administration, leaving drivers with no warranty. During the last crackdown on taxi emissions it was said that London has the worst air quality in the UK and that the Mayor's Taxi Emissions Strategy will reduce the emissions from London's taxis by up to 37%. Taxis were said to be responsible for 24% of fine particle emissions and 12% of nitrogen oxide emissions from road transport in central London and that these pollutants can cause heart and lung diseases.

Having been blamed for so much pollution and having been forced to spend £60million cleaning up London's taxi fleet, you might expect that London's air must be substantially cleaner now. Dave Allen, editor of Cab Driver, carried out some research and looked up the LAQN Pollution Levels in the Marylebone Road (local air quality) before the last emission conversions were completed and compared them to readings two years later at the same time on the same day to see just how much cleaner they were.

The printouts were the same... no cleaner at all.

EURO 4 FOR THE TRADE *by Alan Fleming*

Murderers on the Knowledge, mini-cabs plying for hire and now being allowed to have the operators name and phone number on the vehicle, what next? Well, these points, although serious, are the least of the worries for the trade. For it seems that TFL are attacking the trade once more this time their plans will have a devastating effect on all. A consultation document is shortly to be issued by TFL on their plans regarding emissions.

The word is that they want all taxis to be Euro 4 emissions compliant by 2012 - this will include the late TX1 and all TX11 cabs. It does not seem to matter to them that 15000 cabs were converted to Euro 3 a short time ago which cost the trade over £23m. All those drivers and garages that had to comply before and pay up to £2000 to have the cab converted will have to go through the process again. As far as the law is concerned their plans are unlawful, as new laws cannot be enforced retrospectively. As an example a new law was passed to ban demos in Parliament Square. But as you all know, the anti war demonstrator is still firmly ensconced there. The reason being that he was there before the law was passed, and the law does not apply to him. As another example, if you commit an offence which has a 1 year sentence on the Monday, and on Wednesday Parliament pass a law to increase the sentence to 2 years you can only be sentenced to 1 year, because you committed the offence before the law was passed. Under European motor vehicle regulations the law is the same. Once a vehicle complies with the construction and use regulations those regulations apply to the vehicle for all time. What TFL are looking at is applying their powers to override the law. The fact remains that TFL have no powers to do this.

So what is the course of action that the trade organisations should consider, the answer is a legal challenge. There is a good case here that could well be a winner for the trade the legal argument has to be fought on the Wednesbury Principle. This is a legal argument established by a former Lord Chief Justice, Lord Wednesbury. The argument is about unreasonableness, that TFL have made a decision that no reasonable man could have come to. The proof of this is that the trade spent millions complying with the Euro 3 requirement laid down by TFL only a short time ago. To insist that the trade spend vast amounts of money to comply once again in my opinion would be considered by the court to be unreasonable. The Wednesbury principle is a very strong legal argument and is one that has a very good success rate. So the trade have two arguments on which to make a challenge. They are the argument that TFL are acting unreasonably and that new laws cannot be imposed retrospectively. For to insist that an old vehicle is converted to the new emission standard, which is only for new vehicles, is unlawful. TFL think that they are on safe ground with the Conditions of Fitness which they can vary at any time. They can do this by making a London Cab Order which is a Statutory Instrument. However, a Statutory Instrument is what is known as secondary legislation. Secondary legislation cannot override primary legislation and further a statutory instrument cannot override EU legislation. Local Authorities throughout the UK break the law until they are challenged. So who of the trade organisations will make the challenge? They may take the view that they cannot afford to do so, but can they afford not to?