

Executive summary	3
1. Introduction	5
2. Background	7
3. Methodology and interpretation	9
4. Analysis and results	10
5. Short-term recommendations	32
6. Long-term recommendations	35
Annexes	39

clearly stated
CO₂ emissions ...g/km
fuel consumption ...litres/100 km



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Friends of the Earth Europe

Friends of the Earth Europe campaigns for sustainable and just societies and for the protection of the environment, unites more than 30 national organisations with thousands of local groups and is part of the world's largest grassroots environmental network, Friends of the Earth International.

Executive summary

In Summer 2009, Friends of the Earth Europe (FoEE) and a coalition of national partners initiated a study to look into the degree to which member states were complying with Directive 1999/94/EC. The Directive outlines the requirements of carmakers to inform consumers about the fuel consumption and CO₂ emissions data for new cars sold on the European market, but is also meant to enable consumers to make informed choices with the aim of shifting the market towards more fuel-efficient vehicles, thereby reducing emissions from passenger cars.



Work done by the coalition on the Advertise CO₂ campaign in 2007/8 showed that the vast majority of car adverts were not complying with the Directive. Continued work on this topic through the Car Fuel Efficiency Campaign in 2009 found that while there have been some improvements in communicating this information to consumers, there is still a long way to go to ensure that potential car buyers are duly provided with the required information.

The study was conducted in Belgium, France, Germany, Italy, Spain and the UK. Car adverts from newspapers and magazines were gathered over two separate one-week periods: 15-21 June 2009 and 6-12 July 2009. The publications consisted of three daily national newspapers, a men's magazine, an auto magazine and a general interest magazine for each country. Photos of billboard advertising were also collected and visits to car dealerships conducted over a three-month period from 15 June to 20 September 2009. The transposition of the Directive was also analysed for each of the six countries.

The results showed that **only 30%** of press advertisements were fully compliant with the requirements of the Directive. Out of these, none of the adverts from Spain were compliant, only 7% of those in France, and 14% in Germany.

In Germany, 28% of the car advertisements examined did not display any information about CO₂ emissions and fuel consumption, while the same problem existed in 15% of the adverts in France, and 12% of those in Belgium.

The requirement that the information must be at least as prominent as the main body of information was not met in 100% of the adverts in Spain, 78% in France, 76% in Italy, and more than half of the adverts in Germany and Belgium.

Results for the billboards showed even lower rates of compliance with **only 8%** of billboard adverts fully compliant with the Directive. In this case, there were no billboards from Germany, Italy or Spain which were compliant.

Again Germany was the worst offender with 92% of billboards not including the fuel consumption and CO₂ information. For France and Italy, only about one third of billboard advertisements displayed the required information.

Across all member states, there were very high levels of non-compliance for billboards which did not display the information in a size that was sufficiently prominent. This was the case with 100% of Spanish billboards and 88% of those in Belgium. In France and Italy, more than two thirds of the billboard adverts had text that was too small, while in the UK only half of the billboards were compliant.

Other practices were also identified, which were either non-compliant, misleading or would lead consumers to misunderstand or overlook the information on the vehicle's CO₂ emissions and fuel consumption. These included listing the figures in a range when a single model was advertised; placing the information along the side of the advert or at the top where it was difficult to find and could easily be missed; using a font style and colour which reduced the visibility and legibility; and hiding the figures in with other information such as technical specifications, leasing criteria and financing details.

Compliance rates in car dealerships were much better than for advertising, however there is still a need for greater enforcement of the Directive's requirements. Overall, the label was displayed on or near the car in 79% of cases. However, in the UK and Spain, the label is not present roughly one third of the time. The comparative poster was clearly displayed only 38% of the time.

In Spain, there was 100% non-compliance on the poster and 96% in Germany. The poster was not clearly or prominently presented in almost half of the dealerships in Italy, and more than a third of the time in the UK.

Analysis of the national transpositions found areas where there were loopholes that were being exploited, such as in Germany where carmakers do not need to include any CO₂ or fuel consumption information if the engine size and power is not mentioned in the advertisement. An examination of the monitoring and enforcement that should be done by the national authorities responsible for implementing the Directive showed that there is a high degree of inconsistency between regions, countries, agencies, and also between different periods when complaints have been submitted. Although Article 11 of the Directive states that there should be proportionate, dissuasive penalties for non-compliance, we found that fines are rarely levied and when they are, the amounts are inconsequential and certainly not a deterrent to prevent violations.

Short-term recommendations

The following recommendations are made within the framework of the current Directive in order to reinforce its effectiveness.

1. Correct national transpositions to bring them in line with the original intentions of the Directive and close loopholes
2. A single governmental or administrative body should be responsible for the monitoring and enforcement of the Directive for promotional literature and point of sale. This body should be impartial and objective, therefore industry self-regulatory bodies are not appropriate authorities.
3. Penalties must be set which are proportionate and dissuasive and which will be a deterrent to violations. The amount could be set as a minimum percentage of the cost of the advertising campaign. When there is a violation, the fines must be charged to the offending carmaker.
4. Detailed guidelines are needed to clarify the “main body of information” and “superficial contact” to avoid misinterpretations and ensure that the fuel consumption and CO₂ information is easy to read and understand.
5. The information should be placed in the bottom space of the ad, segregated from any technical specifications or financing details, showing single figures using the combined test cycle, and in a font style and colour that will be prominent and clearly visible and legible.
6. There should be a single, standardised format for the label in showrooms, with colour-coded bands with the letters A-G based on low to high emissions.
7. The poster should also have a clearly defined, standardised format to ensure that they are easy to read and understand and to allow consumers to use them as a comparative tool.
8. The annual guide should be mentioned on all materials at point of sale, not just the posters and labels, as well as in brochures and on manufacturers’ websites. When the website address is listed for the guide, it should be the full web link to access the guide, not just the website for the authority producing it.
9. All brochures for car makes and models should include the full fuel consumption and CO₂ information as well as the energy label. There should also be reference to the annual guide.

Long-term recommendations

The following recommendations are for suggested revisions to the Directive.

1. A comprehensive, colour-coded energy efficiency label should be introduced to show the fuel consumption and CO₂ information. It should be included on all promotional materials, including car advertisements, and in any location where a vehicle is on display for promotional purposes.
2. The energy label should be linked with national tax policies for vehicles. Annual running costs and taxes should be included as key information in advertisements and all other promotional materials.
3. The Directive should ensure that the information on fuel consumption and CO₂ emissions is displayed on any direct or indirect promotional materials and venues. This includes but is not limited to all forms of broadcast advertising on TV and radio, all forms of internet advertising, and all car manufacturer websites.
4. There should be a dedicated space and time for the CO₂ emissions and fuel consumption information, such as 20% of advert space or a set amount of time for broadcast advertising.
5. The Directive should be extended to cover used cars and light-duty vehicles.
6. The Commission should produce a reference guide which clearly outlines the obligations of member states and car manufacturers, including illustrative examples of practices which are acceptable and those which are not.

01 Introduction



In Summer 2009, Friends of the Earth Europe (FoEE) and a coalition of national partners¹ initiated a study to look into the degree to which member states were complying with Directive 1999/94/EC, which outlines the requirements of carmakers to inform consumers about the fuel consumption and CO₂ emissions data for new cars sold on the European market. Work done by the coalition on the Advertise CO₂ campaign in 2007/8 showed that the vast majority of car adverts were not complying with the Directive. Continued work on this topic through the Car Fuel Efficiency Campaign in 2009 has found that while there have been some improvements in communicating this information to consumers, there is still a long way to go to ensure that potential car buyers are duly provided with the required information.

The purpose of this report is to highlight weaknesses and loopholes in the current legislation, underline the lack of compliance and enforcement, suggest short-term measures for improvements, and introduce ideas into the debate for future revisions to the Directive to ensure that it meets its objectives.

“[...] information plays a key role in the operation of market forces; [...] the provision of accurate, relevant and comparable information on the specific fuel consumption and CO₂ emissions of passenger cars may influence consumer choice in favour of those cars which use less fuel and thereby emit less CO₂, thereby encouraging manufacturers to take steps to reduce the fuel consumption of the cars that they manufacture...”²

History of directive 1999/94/EC

Directive 1999/94/EC was introduced by the European Parliament and the Council in December 1999 as part of the European Commission’s strategy to reduce CO₂ emissions from passenger cars. This went in tandem with EU objectives to use natural resources and energy prudently and rationally, to reduce environmental pollution, and to meet the targets of the Kyoto Protocol and the UN Framework on Climate Change (UNFCCC) to reduce emissions and stabilise greenhouse gas (GHG) concentrations in the atmosphere.

In early 2007, the Commission developed a new, more comprehensive strategy for reducing CO₂ emissions from new cars and vans for sale in the EU. While considering measures for both the supply and demand sides, the new strategy highlights the role of consumer behaviour and purchasing choices in shifting the market towards more fuel-efficient vehicles.

The aim of the Directive is therefore “to ensure that information relating to the fuel economy and CO₂ emissions of new passenger cars offered for sale or lease in the Community is made available to consumers in order to enable [them] to make an informed choice”³.

At a minimum, the following information must be provided:

- A fuel economy label displayed for all new cars at the point of sale. A poster (or electronic display) showing the official figures for fuel consumption and CO₂ emissions of all models of new passenger cars displayed or offered for sale or lease at or through that point of sale
- A guide on fuel economy and CO₂ emissions listing all new passenger car models on the market available at point of sale or from a designated body within the Member State
- All promotional literature must contain the official fuel consumption and CO₂ emissions information for the car model to which it refers⁴

The Directive was meant to be a useful awareness-raising tool, however reports from member states in 2003⁵ as well as a 2005 study⁶ to evaluate its effectiveness showed that the expected impact had not been observed. Further, campaign activities and studies from environmental NGOs and civil society found that the situation varied widely from one member state to the next and often between carmakers. Over the past few years, plans for revisions to the Directive have been proposed, but the process has been continually postponed and pushed back. There is still no firm date set for when the revisions will take place, although it is expected to be sometime before the end of 2010.

1. Agir pour l’Environnement (France), BUND (Germany), Amici della Terra (Italy), Terra! (Italy), Ecologistas en Acción (Spain), We Are Futureproof (UK)
2. Introduction, Paragraph 5, Directive 1999/94/EC
3. Article 1, Directive 1999/94/EC
4. http://ec.europa.eu/environment/air/transport/co2/co2_cars_labelling.htm (European Commission/DG Environment website as at 29 January 2009)

5. http://ec.europa.eu/environment/air/transport/co2/co2_cars_labelling.htm
6. A Gärtner/ADAC (March 2005) *Study on the effectiveness of Directive 1999/94/EC relating to the availability of consumer information on fuel economy and CO₂ emissions in respect of the marketing of new passenger cars*



The role of the car industry and the consumer

In 1997/1998, the European Commission and representatives from the car industry negotiated a voluntary agreement to cut average CO₂ emissions for new cars to 140 g/km by 2008; nevertheless, the voluntary targets were missed. The carmakers claimed this was due to a shift in consumer demand for larger, heavier vehicles, which offset their efforts to improve fuel efficiency. However, during this period, carmakers continued to heavily promote these larger, more profitable vehicles at the expense of the smaller, more fuel-efficient models, and although Directive 1999/94/EC was already in place, the inclusion of the mandatory information on fuel consumption and CO₂ emissions was often ignored.

Aim of the report

Ensuring that the carmakers across all EU member states are complying with the requirements of the Directive, in their advertising and promotions and at the point of sale, should help to stimulate consumer behaviour change and shape the demand for more fuel-efficient cars.

The aim of this report is two-fold. By focusing on the current level of compliance and the differences across member states, we will suggest short term recommendations that will improve and strengthen the Directive as it currently exists, and then we will lay out long term recommendations in order to stimulate debate around the much needed revision of the 1999/94/EC Directive.

Structure of the report

The next section of the report outlines the background of our campaign and the work we have done on the issue of the Directive, including the problems we have identified with enforcement. Section 3 then outlines the methodology that we used in our study and explains how we analysed and interpreted the results. Section 4 gives illustrated examples of advertisements which are non-compliant and highlights guidance for best practice cases. Short-term recommendations to reinforce the effectiveness of the current legislation are laid out in Section 5, while the long-term recommendations for improvements and revisions to the Directive are presented in Section 6.



02 Background



The Advertise CO₂ campaign was set up in 2007 by FoEE and several transport-related environmental NGOs from a number of EU member states. A key component of the campaign was a website where environmental groups and individuals could upload images of car advertisements which did not comply with the Directive – either because there was no fuel consumption or CO₂ information present or because the text was too small. Adverts submitted to the website were compiled and then sent to the relevant national authorities.

On 25 June 2008, several of the national campaign groups filed simultaneous joint complaints to the European Commission to bring attention to the lack of compliance at national level and to encourage the Commission to take action to ensure stronger enforcement by the member states. Throughout 2009, the national groups taking part in the Car Fuel Efficiency Campaign have been monitoring car advertising in each of their countries on an ongoing basis and have continued to file complaints to the national bodies along with the accompanying adverts.

Over the course of the two campaigns, we have uncovered a number of irregularities and inconsistencies within the system, for example with the transposition of the Directive into national law, the national authorities that are assigned the responsibility for monitoring compliance and ensuring enforcement, the process of filing complaints, the follow up and the judgments taken against carmakers and advertisers for lack of compliance, and any penalties or fines that are levied (see Annex 1 for history of complaints by country).

Transposition of the directive

A comparative analysis of the transposition of Directive 1999/94/EC in the six member states included in the study (Belgium, France, Germany, Italy, Spain, UK) shows that the Directive text, including all of its main elements, was translated literally into national legislation in each country. In some cases, minor additional requirements were added over and above those contained in the original text. Articles 3 to 6, which define the core set of legal requirements, and Annexes I to IV were all reproduced in the national legislations more or less word-for-word. Therefore the national legislation in these six countries reflects the same balance as the original Directive, i.e. that the obligations of car dealers and national authorities are clearly laid out but very little guidance is offered for the practical implementation of the requirements relating to promotional materials.

However, nuances introduced to the text in Germany raise concerns regarding both the letter and spirit of the Directive. While Article 6 and Annex IV clearly state that all promotional literature must contain the official fuel consumption and CO₂ emissions figures for each model being promoted, Germany has adapted the text to say that where an advert does not mention the engine size or power of the car, the fuel consumption and CO₂ emissions information does not need to be included. Therefore the German transposition justifies non-compliance with the Directive under their national law by providing carmakers with a loophole so that they are not obliged to include the fuel consumption and CO₂ information in their advertising.

National authorities

The text of the national transpositions usually identifies the authority or authorities appointed to implement and enforce the legislation of the Directive. The responsibility for ensuring that carmakers are fulfilling their obligations at point of sale mainly falls on a governmental or administrative body in the member state. On the other hand, it is generally an industry self-regulatory body that is given the task of overseeing the requirements for promotional literature. However, in Germany and in the autonomous regions of Spain, the process of defining the authorities in charge is still ongoing – even though it has been more than 10 years since the introduction of the Directive. While in some cases there is a single national body, in Italy and Spain, for example, there are separate authorities assigned with monitoring and enforcement for each region or province.

As we have noted throughout our campaign, compliance with the requirements of the Directive is higher when an objective and impartial body, such as the administrative branch of a government, is in charge of monitoring and enforcement. Where an industry-focussed self-regulatory body is responsible, we have found that the levels of compliance are much lower and there seems to be much less effort to monitor and enforce the legislation or to ensure that advertisements comply with the obligations. In addition, self-regulatory bodies and regional authorities, such as the Chambers of Commerce in Italy, do not have the resources to fully monitor compliance and ensure that the obligations of the Directive are being met.



Complaints and penalties

The process of filing complaints varies from one country to the next and depends on whether there is a single national authority responsible for enforcement or whether there are multiple bodies. For example, in the UK there is one body, the Vehicle Certification Agency (VCA), who is responsible for enforcement for advertising and any complaints must be submitted to them. In Italy, the regional Chambers of Commerce are in charge therefore complaints must be sent to the appropriate Chamber based on the region in which the advertisement was published. If a particular advert appears in several regional issues of a publication, then separate complaints must be filed with each Chamber of Commerce. The same conditions apply in Spain where the authorities from the autonomous regions are assigned the responsibility for the rules of the Directive, however the complaints must be submitted to the authority in which the carmaker's national headquarters are based. In Spain, the situation is further complicated as only consumer groups are allowed to make complaints, therefore if an environmental NGO wishes to file against any car advertisements, they must partner with a consumer group who can take forward the case.

Spreading the management of the monitoring and enforcement around to several different bodies not only complicates the process, but means that efforts are duplicated and that more resources are needed to perform the same task. It is also important to ensure that the authority in charge has sufficient resources to fulfil their task effectively; several of the Italian Chambers of Commerce have admitted that they do not have sufficient time or resources to adequately monitor and enforce compliance with the Directive, therefore they are not performing their responsibilities as would be expected. The process is much simpler and more efficient when there is a single national authority, preferably a government body, which is appointed to oversee compliance with the Directive for both advertising and dealerships.

We also found that when complaints are filed that the follow-up is quite weak. Many of our groups who submitted complaints to their national bodies had to wait months without any response or further information, and most often finally contacted the national body themselves to request an update. The decisions made were frequently inconsistent from one complaint to the next, between one region and another, and across member states. For example, in Spain, similar advertisements were submitted in which the fuel consumption and CO₂ information was not as prominent as the main body of information. The adverts were found to be non-compliant in Catalunya and Aragon, while the complaints were rejected in Madrid. Similarly, in the UK, a complaint filed one month against an advert for not displaying the information prominently enough might be rejected, while the next month another complaint will be supported and the advertisement will be found non-compliant. When the joint complaints were submitted in June 2008 by the national groups for related issues of non-compliance, the adverts from several of the countries were found to be unlawful, while those from France were considered to be compliant, even though they were similar to those from the other countries which were not compliant.

There seem to be very few cases of penalties or fines being levied, even when there have been repeat offences. An industry-focussed self-regulatory body is much more likely to issue a warning than to fine one of its own members, and we have noted in the correspondence with the national bodies that there are often multiple “warnings” given without any repercussions should the carmaker or advertiser continue the offence.

Article 11 of the Directive states that there should be “*penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties shall be **effective, proportionate and dissuasive***”. We have not seen any evidence of these kinds of penalties. When there are fines, they are often between €250 to €1000, which is hardly proportionate or dissuasive when applied against the amount that is usually spent on an advertising campaign. Therefore even if the carmakers and advertisers were issued a fine, the amounts are an insufficient deterrent to ensure compliance with the requirements of the Directive, and as a result they do not seem to have been effective in preventing offences so far. Penalties should be much higher to be truly effective and dissuasive in preventing violations, and in order for them to be proportionate, they should be based on the size and cost of the advertising campaign, and also based on the level of the offence, i.e. the required information is missing, the text is not as prominent as the main body of information, etc.

As can be seen, although the bulk of the problems lie with the carmakers and advertisers who are either ignorant of the requirements of the Directive or ignoring them, there are also concerns with the system for monitoring and enforcing the regulations. We list a number of short-term recommendations for improvements to the current framework in Section 5.

03

Methodology and interpretation



As mentioned already, the purpose of this study was to evaluate the effectiveness of the Directive in terms of providing consumers with adequate information on fuel consumption and CO₂ emissions, to highlight problems and show areas of non-compliance, and to make recommendations for improvements.

Methodology

The study was conducted in Belgium, France, Germany, Italy, Spain and the UK. Car adverts from newspapers and magazines were gathered over two separate one-week periods: 15-21 June 2009 and 6-12 July 2009. The publications consisted of three daily national newspapers, a men's magazine, an auto magazine and a general interest magazine for each country (see **Annex 2** for a full list of publications used). Photos of billboard advertising were collected over a three-month period from 15 June to 20 September 2009 (see **Annex 3** for a list of cities where billboard images were collected).

Visits to car dealerships were carried out during the same three-month period (15 June to 20 September 2009) in all of the countries except Belgium. The aim was to visit 20 dealers per country, however at a minimum, groups were asked to visit 12 showrooms consisting of eight European and four non-European carmakers⁷. In addition, a dealership for a "luxury" brand and an SUV maker were to be included for each country (see **Annex 4** for a full list of dealers visited by country).

Adverts in other forms of media, such as TV, radio and internet, were not examined as they are outside the remit of the current Directive (although we have included them in our recommendations for revisions to the Directive).

Interpretation and analysis

The advertisements, photos of billboards and information from dealer visits were sent to FoEE and collated. The analysis of the information considered the following factors to determine legal compliance with the Directive:

Promotional literature

- Is the fuel consumption/CO₂ information in the advert?
- Is the information as prominent as the main part of the information in the advert?
- Is the information easy to read even on superficial contact?
- Where is the information placed in the advert?
- Is the information displayed as a range of figures or only the worst figure?

Point of sale

- Is the label with the fuel consumption/CO₂ information attached to or displayed near each car in the showroom in a clearly visible way?
- Is there a comparative CO₂ poster prominently displayed in the showroom?

- Is the information on the poster easy to read?
- Does the free literature (i.e. brochures) in the showroom contain the CO₂ information?

We applied the same method of analysis across all six countries. In order to determine whether the fuel consumption and CO₂ information in the advert was displayed as prominently as the main information, we compared the information against the next font size and style used after the main slogan. In order to determine if the information was easy to read on superficial contact, we applied a maximum 5 second rule: if it was possible to find the CO₂ information within 5 seconds, as well as understand its meaning, then we concluded it was easy to read.

Some factors generally ruled out 'easy to read' status; we decided that information presented as a range of figures for many variants under one model was confusing to most people and made the information difficult to understand, apart from the fact that it is also against the Directive's mandate. Therefore these cases were automatically classified as 'not easy to read'. Billboards were analysed according to whether the information could be easily seen and understood from across the road.

As not all groups checked the availability of the annual guide at point of sale, we have not included it as one of the elements analysed from the dealer showroom visits.

The following section illustrates the findings and results from our analysis.

⁷ European carmakers included BMW, FIAT, Land Rover, Peugeot, Renault, Smart, Volkswagen and Volvo. The non-European carmakers included Ford, Honda, Nissan and Toyota.

04

Analysis and results



As mentioned in the methodology section above, we examined car adverts from a variety of newspapers and magazines during two separate one-week periods and from billboards over a three-month period. In total we gathered over 900 images across the six European countries taking part in the study. We also carried out 98 dealership visits in five of the six member states. Our analysis revealed a high degree of non-compliance with Directive 1999/94/EC for most of the car advertising, and a variable degree of compliance in the dealer showrooms.

a) Promotional literature

This section looks at the results for car advertisements in newspapers, magazines and billboards according to those that were non-compliant with the *letter* of the Directive and those that were against the *spirit* of the Directive. Cases were considered a clear violation if they were non-compliant with the letter of the Directive; this consisted of any adverts which had no fuel consumption or CO₂ information or where the text was less prominent than the main body of information. Adverts which were non-compliant with the *spirit* of the Directive were those which were not in clear violation and did not blatantly contradict any of the regulations in the Directive, however the information was in a format that was deceptive, misleading or could be easily overlooked by consumers.

1. Non-compliance with the letter of the directive: clear violation

In the examination of the adverts from newspapers, magazines and billboards, we first looked for compliance with Article 6 of the Directive, that “*all promotional literature [must] contain the official fuel consumption and CO₂ emissions data*”. We then included the requirement from Annex IV, Paragraph 1 that the

CO₂ and fuel consumption figures should be “*easy to read and no less prominent than the main part of the information provided in the promotional literature*”. If these two criteria were not met, we considered the adverts to be non-compliant. Tables 1 and 2 below show the results of the analysis for press adverts and billboards respectively.

Table 1: Analysis of car adverts in newspapers & magazines

		Belgium	France	Germany	Italy	Spain	UK	Total EU
	Total number press ads analysed	42	125	71	197	161	208	804
Compliant	CO ₂ info same size or larger than main info	36% 15	7% 9	14% 10	23% 45	0% 0	76% 159	30% 238
	Non-compliant							
	CO ₂ info missing	12% 5	15% 19	28% 20	2% 3	0% 0	8% 17	8% 64
	CO ₂ info smaller than main info	52% 22	78% 97	58% 41	76% 149	100% 161	15% 32	62% 502

Of the **804** car adverts collected from newspapers and magazines, we found that **only 30% are compliant** with Directive 1999/94/EC. However, this value was boosted largely due to the higher ratio of compliance in the UK at 76%. **In Spain, none of the adverts were compliant**, while **only 7% of French adverts** and **14% of German adverts conformed** to the requirements of the Directive.

Germany had the highest rate of adverts without the fuel consumption/CO₂ information at 28%, almost double that of France with 15% and Belgium with 12%. All but 2% of the adverts in Italy and all of those in Spain have the required information. Nevertheless, not a single advert in Spain had the figures in a size equal to or larger than the main body of information in the advertisement, and therefore all were non-compliant. France and Italy performed only slightly better on text size at 78% and 76% each, while the UK had the lowest rate of non-compliance in this category with 15%.

Results for the billboards were even worse with **only 8% of 111 advertisements complying** with the Directive, again augmented as a result of the UK's performance where 43% of billboards showed the CO₂ information and fuel consumption figures in an adequate size. **In Germany, Italy and Spain, none of the billboards were compliant; only 5% of French billboards and 13% of those in Belgium** fulfilled the Directive's obligations.

Once again, Germany scored worst with 92% of the billboard adverts missing the CO₂ emissions and fuel consumption information. Italy came in next at 31%, closely followed by France at 30%. The best levels of compliance were in Belgium and Spain where none of the billboards were missing the information, and all but 7% of those in the UK had it displayed. However, the rates of overall compliance were still extremely low, which is a result of presenting the fuel consumption and CO₂ information in a size that

is not equal to or larger than the main body of information in the advert. As with their press advertising, Spain's billboards consistently displayed the figures in a size that was smaller than the main body of information, so again **100% were non-compliant**. In Belgium, 88% of billboards didn't comply with the Directive, followed by Italy with 69%, France with 66%, and the UK with 50% of billboard adverts not complying. Based on the figures in the table above, Germany seems to have performed better in this category, however it should be noted that only one billboard even had the fuel consumption and CO₂ information, and in this case the text was not large enough.

Following is an illustrated analysis of press adverts and billboards that are in clear violation of Directive 1999/94/EC.

Table 2: Analysis of car adverts on billboards

		Belgium	France	Germany	Italy	Spain	UK	Total EU
	Total number billboards analysed	8	44	13	16	16	14	111
Compliant	CO ₂ info same size or larger than main info	13% 1	5% 2	0% 0	0% 0	0% 0	43% 6	8% 9
Non-compliant	CO ₂ info missing	0% 0	30% 13	92% 12	31% 56	0% 0	7% 1	28% 31
	CO ₂ info smaller than main info	88% 7	66% 29	8% 1	9% 11	100% 16	50% 7	64% 71

1.1 CO₂/fuel consumption information missing

The Directive clearly states that all advertising must display the CO₂ and fuel consumption figures, with the only exception being where the advert is for a brand rather than a particular model. In our examination of promotional literature, we found that **8% of press adverts and 28% of billboards had no information**, which is a clear and unambiguous violation of the Directive. Figures 1 to 5 below show some examples of car adverts that have excluded the obligatory information and therefore do not conform to the regulations.



Figure 1: Mercedes-Benz C-Klasse, GERMANY

Source: *Auto, Motor und Sport*, 02 July 2009, p. 59

This German advert promoting the Mercedes-Benz C-Class has no information on the fuel consumption and CO₂ emissions anywhere in the advert, therefore clearly violating the Directive. This is a common practice in Germany due to the way they transposed the national law.

Another trend of non-compliance that we discovered is in advertisements from dealerships, which frequently fail to include any information on the fuel consumption and CO₂ emissions. These types of adverts often show many different models and sometimes different makes of cars, all of which are clearly identifiable, and therefore they must also comply with the rules of the Directive.



Figure 2: Motorpoint Car Supermarket – Various models, UK

Source: *What Car? Magazine*, August 2009, p. 160

In this example from the UK, the Motorpoint dealer has advertised several different makes and models without listing any CO₂ or fuel economy information for the vehicles as required.

As well as with the press adverts, we found many cases where outdoor promotional materials failed to include the legally required information. All billboard advertisements and banners, whether they are posted on outdoor hoardings, hung from buildings, or displayed in train stations, airport terminals, or sports arenas, must comply with the regulations of the Directive, that is, they must give the information on CO₂ and fuel consumption.

Regardless of whether the advertisement shows a picture of the vehicle, if the make and model of the car are listed, then the rules of the Directive apply and the relevant fuel consumption and CO₂ information must be included. In the case where an advert is a “teaser”, i.e. another advert follows a few pages later or in a subsequent issue of the newspaper or magazine, or where the second part of a billboard advert follows a few (hundred) metres down the road, if the make and model are mentioned in each part, then the information must also be displayed on each separate page or individual billboard.

The only exception for when the fuel consumption and CO₂ information is not required is when the advert is for a make only and does not specify any particular model from that brand. However, in the case where the advert is for a brand but a specific model is displayed and can be clearly identified, then the fuel consumption and CO₂ information for that model must be given.



Figure 3: Hyundai i20, ITALY

Source: Piazza Venezia, Rome, 23 June 2009

The banner advert from Italy for the Hyundai i20 is an example of outdoor billboard advertising without the required CO₂ information and fuel consumption figures.



Figure 4: Renault Clio, FRANCE

Source: Zone Commerciale Nord, Mâcon, 08 September 2009

This advert for the Renault Clio found in France has no emissions or consumption figures. While it may have been a teaser, it specifically refers to the model of car and therefore must also have the consumption and emissions data listed.



Figure 5: Volkswagen Golf GTI, UK

Source: The Ashes England-Australia cricket match, Edgbaston Stadium, Birmingham, 31 July 2009

As both the make and model of car are clearly visible on the banner for the Volkswagen Golf GTI shown at the sporting event in this image, and since banners fall under the category of promotional materials, it must comply with the regulation to display the consumption and CO₂ emissions figures as with any other billboard or outdoor advert.

1.2 CO₂/fuel consumption figures smaller than main information

The other area where we found a large degree of violation was under the stipulation that the CO₂ and fuel consumption information must be at least as prominent as the main part of the information in the advert. Despite this regulation, we found high rates of non-compliance with 62% of press adverts and 64% of billboards clearly violating the rules of the Directive. It is a common practice in several of the countries we surveyed to include the fuel consumption and CO₂ emissions data in advertisements, but to display it in a size that is not as prominent as the main information, and which is frequently neither legible nor clearly visible. This is particularly the case in Spain where 100% of the press adverts and billboards that we reviewed did not comply with the Directive because the text was too small. The following examples in Figures 6 to 8 demonstrate unequivocal cases of this unlawful practice.



Figure 6: Subaru Impreza, SPAIN

Source: *El País, Supplement*, 12 July 2009, p 1

In this advert for the Subaru Impreza from Spain, the CO₂ and fuel consumption figures are much smaller than all the other text and are virtually impossible to read. In order to be as prominent as the main information, it should be the same size as the price information and in the same font style, i.e. bold and in capitals.



Figure 6.1: Subaru Impreza, SPAIN (magnified)

Source: *El País, Supplement*, 12 July 2009, p 1

In addition, the Directive states that the value for the fuel consumption should be expressed in litres/100 km, whereas here it is only listed as 7.5 litres.



Figure 7: Fiat 500, GERMANY

Source: *Auto, Motor und Sport*, 17 June 2009, p 55

Although this advert for the Fiat 500 from Germany does display the CO₂ emissions and fuel consumption information, it is in a size that is significantly smaller than the main body of the text. In addition, the information is practically indistinguishable from the labels and logos beside which it has been placed.



Figure 7.1: Fiat 500, GERMANY (magnified)

Source: *Auto, Motor und Sport*, 17 June 2009, p 55

To comply with the Directive, the information should be in the same style and size as the text beginning “Bis zu...”. It would also be more easily identifiable if it were on a separate line, clearly set apart from the logos.



Figure 8: Citroën C3 Picasso, BELGIUM

Source: Chaussée d’Etterbeek, Brussels, 9 July 2009

This Belgian billboard advert for the Citroën C3 Picasso lists the fuel consumption and CO₂ information in a size that is much smaller than the main body of information. The text should be at least as large and prominent as the price information in the white space below the image.

2. Non-compliance with the spirit of the directive: misleading practices

In the next stage of our study, we analysed the advertisements according to the requirement from Annex IV, Paragraph 2 that the information must be “easy to understand even on superficial contact”. The results of this analysis are shown below in Table 3 for press adverts and Table 4 for billboards.

In the cases where the CO₂ and fuel consumption information was included in the advertisements in newspapers and magazines, **only 21% were legible and understandable on superficial contact**. Since 100% of the Spanish adverts we studied did not display the information in an appropriate size, it’s not surprising to see that 99% were also difficult to read and understand on superficial contact. Belgium also ranked quite poorly with 89% of the relevant information illegible on superficial contact; Germany was next at 80%; France and the UK followed with 76% and 75% respectively; and Italy did marginally better at 66%.

The results for the billboards showed extremely low levels of compliance: the required fuel consumption and CO₂ emissions information was **not easy to read and understand on superficial contact for 94% of billboard adverts**. In four of the six countries surveyed – **Germany, Italy, Spain, the UK – 100% of the billboards were found to be non-compliant** in this respect. In France only 6% of adverts provided fuel consumption and CO₂ information that was visible on superficial contact. Belgium had the best results of all six countries, however there were still 62% of billboard adverts without the information in a size and format that was easily legible or visible on superficial contact.

We found several factors that contributed to whether the CO₂ and fuel consumption information was easy to read and understand on superficial contact.

Table 3: Analysis of “superficial contact” for newspaper & magazine adverts (excludes adverts with no CO₂/consumption information)

		Belgium	France	Germany	Italy	Spain	UK	Total EU
	Total number press ads analysed	37	106	51	194	161	191	740⁸
Compliant	CO ₂ information legible on superficial contact	11% 4	24% 25	20% 10	34% 66	1% 2	25% 48	21% 155
Non-compliant	CO ₂ information illegible on superficial contact	89% 33	76% 81	80% 41	66% 128	99% 159	75% 143	79% 585

Table 4: Analysis of “superficial contact” for billboards (excludes adverts with no CO₂/consumption information)

		Belgium	France	Germany	Italy	Spain	UK	Total EU
	Total number billboards analysed	8	31	1	11	16	13	80⁹
Compliant	CO ₂ information legible on superficial contact	38% 3	6% 2	0% 0	0% 0	0% 0	0% 0	6% 5
Non-compliant	CO ₂ information illegible on superficial contact	62% 5	94% 29	100% 1	100% 11	100% 16	100% 13	94% 75

⁸. Total number of ads collected minus those with no CO₂ info, i.e. 804 press ads – 64 without CO₂ = 740

⁹. Total number of billboard ads collected minus those with no CO₂ info, i.e. 111 billboards – 31 without CO₂ = 80

Showing the information in a size that is too small and not sufficiently prominent is one of them, and has already been discussed. Other factors that we identified include showing a range of figures and test cycles, where and how the information is placed in the advert, the style and colour of the font, and whether the figures are segregated or buried in with other information. Below we look at each of these factors individually, along with examples of adverts illustrating the problem.

2.1 Range of figures and test cycles

Article 2, Paragraphs 5 and 6 of the Directive state that “where several variants and/or versions are grouped under one model, the values to be given” for the “official fuel consumption” and “specific emissions of CO₂ [...] shall be based on the variant and/or version with the highest [value] within that group”. Further to that, Annex IV, Paragraph 3 states that “official fuel consumption should be provided for all different car models to which the promotional material covers. If more than one model is specified then either the official fuel consumption data for all models specified is included or the range between the worst and best fuel consumption is stated”. The first statement would imply that any advertisement for a car should show only a single figure for consumption and emissions, with that figure representing the worst value, therefore an advertisement showing a range of figures when a single model is advertised would be non-compliant with the letter of the Directive and therefore in breach of the law. However, the second statement gives the advertiser a choice of using a single figure or showing a range. Because we find the definition of these two criteria to be rather ambiguous, we have included the category where a range of figures is shown as being against the spirit of the directive, rather than against the letter of the law. Practices vary demonstrably between the countries; in some cases a range is shown in both single model and multiple model advertisements,

while in other cases only the worst figures are shown regardless of how many models are being promoted in the advert.

As can be seen in Tables 5 and 6 below, almost 40% of the press advertisements and 32% of the billboards showed a range of figures for the fuel consumption and CO₂ emissions when a single model advertised had several variants. This practice does not comply with the requirements of the Directive. For press adverts, this practice was most common in Belgium with 71% showing a range of figures, followed closely by Spain at 68% and the UK at 52%. Spain was the worst offender for billboard adverts with 75% listing the figures as a range, the UK next at 64%, then Belgium at 62%. This unlawful practice was least common in Italy: only 4% of press adverts and none of the billboards listed a range of figures for the variants of a single model rather than giving only the worst figures.

Another element that we found added to the lack of readability and understandability was the test cycles that were used to display the fuel consumption and CO₂ information. Different test cycles are highlighted in different member states or even between different carmakers. In some countries the figures for only the combined (or mixed) test cycle is displayed, while in others all three test cycles are listed (urban, extra-urban, and combined/mixed). According to UK law, both metric and imperial figures must also be displayed. This practice is sometimes done in a way that not only makes the information difficult to read and understand on superficial contact, but also adds to the consumer’s confusion. The problem is also compounded when the units of fuel consumption or CO₂ emissions are repeated for each set of figures and for all of the test cycles, i.e. MPG or litres/100km. Below in Figures 9 to 11 we highlight several cases where showing a range of figures and test cycles makes the required information difficult to read and understand on superficial contact.

Table 5: Analysis of range of figures for newspapers & magazines

	Belgium	France	Germany	Italy	Spain	UK	Total EU
Total number press ads analysed	42	125	71	197	161	208	804
Non-Compliance:	71%	34%	30%	4%	68%	52%	40%
Range of figures for one model	30	42	21	7	110	109	316

Table 6: Analysis of range of figures for billboards

	Belgium	France	Germany	Italy	Spain	UK	Total EU
Total number billboard ads analysed	8	44	13	16	16	14	111
Non-Compliance:	62%	23%	0%	0%	75%	64%	32%
Range of figures for one model	5	10	0	0	12	9	34



Figure 9: Volkswagen Tiguan SE, UK

Source: *The Guardian*, 9 July 2009, p 8

In this example from the UK, the advert for the Volkswagen Tiguan SE displays the CO₂ and fuel consumption information in such a way that it is not easy to read or understand on superficial contact. First, the range between best and worst figures is given, even though only one model is being promoted. The Directive is clear that only the worst figure should be advertised for several variants of the same model.

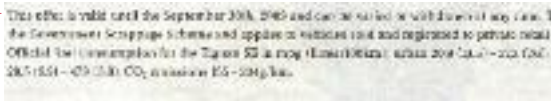


Figure 9.1: Volkswagen Tiguan SE, UK (magnified)

Source: *The Guardian*, 9 July 2009, p 8

As is standard practice in the UK, both imperial and metric units are given, as well as the figures for all three test cycles. Reducing the sheer amount of data would make the information clearer, more legible and easier to understand. In addition, the figures should be larger and more prominent, in bold, segregated from the scrappage scheme offer, not presented in a range, and ideally using only the combined test cycle.



Figure 10: Ford Focus and Fiesta, GERMANY

Source: *Bild am Sonntag*, Berlin, 21 June 2009, p 49

This German advert for the Ford Focus and Fiesta is also difficult to read and understand on superficial contact. Again, the fuel consumption and CO₂ information is presented as a range for each model rather than the highest figure, and all three test cycles are listed.



Figure 10.1: Ford Focus and Fiesta, GERMANY (magnified)

Source: *Bild am Sonntag*, Berlin, 21 June 2009, p 49

To improve the legibility and understandability, the information for each of the models should be on a separate line and only the combined test cycle figures should be listed. The text “nach RL80/1268/EWG” is unnecessary and should be removed. In addition, the fuel consumption and CO₂ information is too small and should be at least as prominent as the orange text highlighting the scrappage rebate.



Figure 11: Nissan Qashqai, Qashqai+2, and Murano, SPAIN

Source: Glorieta de San Vicente, Madrid, 17 June 2009

Although this Spanish billboard advert for the Nissan Qashqai, Qashqai+2, and the Murano does not list the figures as a range, it is nevertheless difficult to read and understand on superficial contact.

Not only is the fuel consumption information displayed for all three test cycles for each model, but for each set of figures, the units (litres/100 km) is repeated, leading to a lot of unnecessary text.

The information would be much more meaningful for consumers if the figures for the combined test cycle only were listed and if the information for each model was on a separate line.

As with the last two examples, the text is too small and should be larger and more prominently displayed to catch the viewer's attention.

2.2 Placement of information

Although the vast majority of car advertising in the press displays the fuel consumption and CO₂ information at the bottom (87%), some carmakers have developed the unusual practice of placing the figures along the side of the advert (7%) or at the top (6%). This makes it extremely difficult for the consumer not just to find the information but also to see it clearly; for a press advert they must turn the paper in order to read it, or in the case of a billboard they must turn their head sideways. When the figures are also displayed in small text, as is often the case, the information is virtually illegible. Table 7 below shows the frequency of this practice in each of the member states examined. Italy was the main offender overall, displaying the fuel consumption and CO₂ information vertically along the side of the image in 18% of press advertisements, while 8% of Spanish cases follow this practice. Placing the figures at the top was observed in 13% of Italian adverts and 11% in the UK.

Figures 12 to 15 illustrate some examples of both of these practices.

Table 7: Analysis of placement of figures for newspapers and magazines

	Belgium	France	Germany	Italy	Spain	UK	Total EU
Total number press ads analysed	42	125	71	197	161	208	804
CO ₂ info at side of ad	0%	0%	0%	18%	8%	2%	7%
	0	0	0	36	12	41	52
CO ₂ info at top of ad	0%	1%	0%	13%	1%	1%	6%
	0	1	0	25	1	22	49

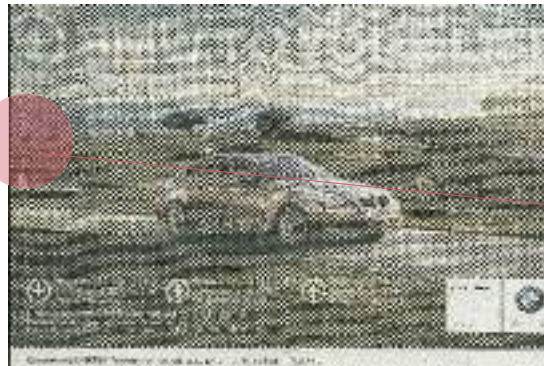


Figure 12: BMW Serie 5, ITALY

Source: *Corriere della Sera*, 21 June 2009, p 8

In the BMW 5 Series advert from Italy, the information is listed along the left edge of the image. In addition the text is in a font size which is so tiny that it is effectively unreadable and therefore is likely to be overlooked by consumers. This is a common practice with BMW adverts, particularly in Italy.

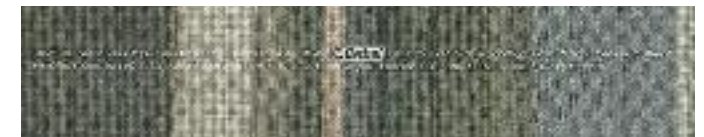


Figure 12.1: BMW Serie 5, ITALY (magnified)

Source: *Corriere della Sera*, 21 June 2009, p 8

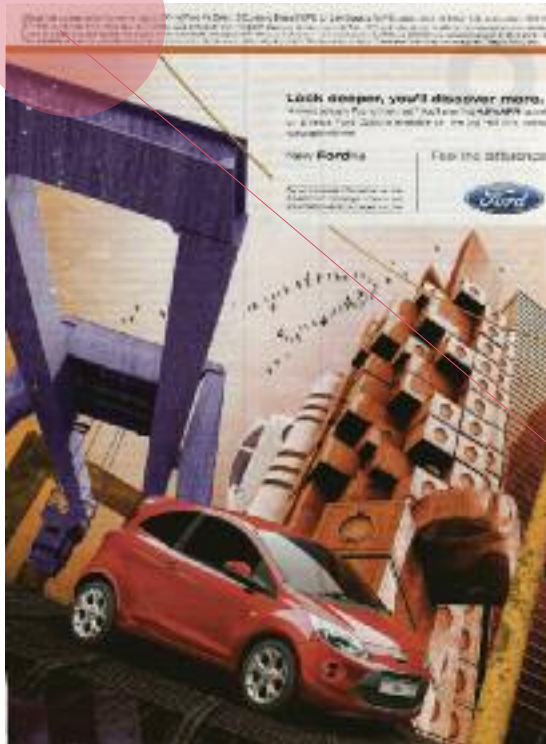


Figure 13: Ford Ka, UK

Source: *What Car?* Magazine, August 2009, p 74

This example from the UK for the Ford Ka displays the information at the top of the advert above the bold orange line. Figures placed at the top of the advert are easily overlooked by consumers, as the eye is not drawn to that area. In particular when they are separated from the rest of the image by a solid line, the viewer does not tend to look above the line as it seems to be the boundary of the image.

Official fuel consumption figures in mpg (l/100km): Ford Ka Zetec 1.3 Duratec Diesel (75PS) & 1.2 8v Duratec (69PS): urban 64.3-44.8 (5.2-6.3), extra urban 76.4-64 (3.7-4.4), combined 67.3-55.4 (4.2-5.1). Official CO₂ emission 112-119g/km. Read only. Vehicle shown is Ka Zetec. 16" 5 spoke alloy wheels, metallic paint and rear spoiler are optional extra. Subject to availability at participating Ford dealers for new Ka vehicles (not applicable to Studio or Style Avants), contacted between 01.07.09 and 30.09.09 and registered between 01.07.09 and 31.12.12. The superscripts are previously advertised manufacturer's promotions. Details correct at time of going to print. Finance subject to status. ³Supervisors/individuals may be required. Pre-qualify Ford Credit.

Figure 13.1: Ford Ka, UK (magnified)

Source: *What Car?* Magazine, August 2009, p 74

This makes the information difficult to read and understand on superficial contact. This format is common with most Ford advertisements across all of the countries in which we conducted our study.

In addition, the advert does not comply with the Directive because the fuel consumption and CO₂ information is too small and a range of figures are presented for a single model. The information would also be easier to read if it was separated from the fine print which follows.



Figure 14: BMW Z4 Roadster, ITALY

Source: via Baracca, Firenze, 30 June 2009

Another example of a BMW advert from Italy, this time a billboard for the Z4 Roadster, has the information listed along the side of the image, rendering it virtually unreadable. Once again the text is also too small and therefore the advert is non-compliant.



Figure 15: Ford Fiesta, SPAIN

Source: Mira el Sol, Madrid, 17 June 2009

As with the previous example for Ford, this Spanish billboard for the Fiesta contains the required information in the white space above the solid yellow line at the top of the advert. It's hard to notice that it's even there. In order to be clearly readable and understandable, the information should be prominently displayed at the bottom of the advert in a bolder, larger font.

2.3 Font styles and colours

The font used for the fuel consumption and CO₂ information should be in a colour and style that emphasises the text and makes it clearly visible and legible. Black font is recommended, except where this would render the information hard to see; therefore the colour of the text should contrast with the background of the image. Generally the same font should be used as in the rest of the advert, and in particular it should match the main body of information. To add visibility and make the figures more prominent, the text should be displayed in bold.

Figures 16 and 17 show adverts where the colour and style of the font have made it difficult to see and therefore it is not easy to read or understand on superficial contact.

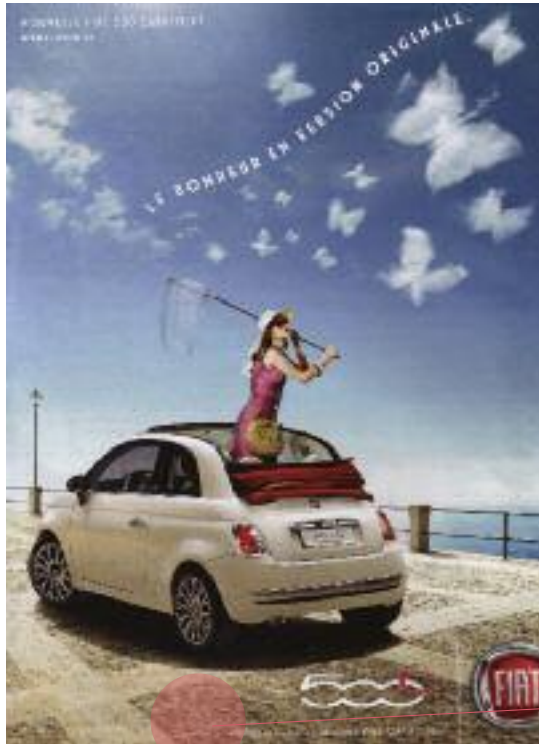


Figure 16: Fiat 500C, FRANCE

Source: *Le Figaro supplément Figaro Madame*, 11 July 2009, p 6

The Fiat 500c advert from France has the information at the bottom of the advert in a white font which is hard to distinguish from the light background of the image, making it almost impossible to see. In addition it is too small and not at all easy to read or understand on superficial contact.



Figure 16.1: Fiat 500C, FRANCE (magnified)

Source: *Le Figaro supplément Figaro Madame*, 11 July 2009, p 6

To improve the legibility of the information, it should be in black or a colour which contrasts with the light background, and should be in bold. Another alternative would be to have a separate box or space in the bottom of the image where the information could be placed in a more prominent and visible manner.



Figure 17: Suzuki Alto, UK
 Source: *What Car? Magazine*, August 2009, p 8

Another example of font style and colour that is difficult to read is in this UK advert for the Suzuki Alto. The purple-grey colour of the font does not contrast enough with the white background to be visible, particularly when it is not in a bold font. On top of that, the font is not as prominent as the main body of information in the advert and should be in a similar colour and font style.



Figure 17: Suzuki Alto, UK (magnified)
 Source: *What Car? Magazine*, August 2009, p 8

2.4 Hidden in with other information

Another common practice that we observed which made the CO₂ and fuel consumption figures difficult to read on superficial contact was to bury it in with other information in the advert such as logos, leasing and pricing details, technical specifications, and scrappage scheme offers. Figures 18 and 19 below show examples of this practice.



Figure 18: Lancia Delta, FRANCE

Source: *Le Figaro supplément Figaro Magazine*, 11 July 2009, p 25

The Lancia Delta advert from France has placed the required fuel consumption and CO₂ information amongst the small print at the bottom of the page. It is impossible to find the information on superficial contact as you have to read through all the fine print to find the figures hidden in the second half of the tenth line.



Figure 18.1: Lancia Delta, FRANCE (magnified)

Source: *Le Figaro supplément Figaro Magazine*, 11 July 2009, p 25

The CO₂ and consumption information is much too small and should be at least as prominent as the pricing details.

In general this amount of information should be avoided in an advert and should be kept for brochures and other technical documentation.



Figure 19: Suzuki Alto, ITALY

Source: *Quattroruote*, June 2009, p 21

This Italian advert for the Suzuki Alto shows another example of hiding the CO₂ and fuel consumption figures in with other information – it is placed to the right of the Euro5 logo. The information is also indistinguishable because of the minuscule font size, and therefore effectively illegible.



Figure 19.1: Suzuki Alto, ITALY (magnified)

Source: *Quattroruote*, June 2009, p 21

Although the figure for CO₂ emissions (103g/km) is displayed twice within the image, this is part of the advertising message and does not replace the legal mention required for both the official CO₂ emissions and consumption figures.

3. “Better” practices

While we did not find any advertisements that were exemplary in terms of meeting all the criteria of the Directive, or which could be used as examples of best practice, we did identify some adverts where there were elements of “better practice” – see Figures 20 to 22 below. It is important that illustrative guidance notes are provided to the appropriate agencies in the member states to ensure that they understand the requirements of the Directive and how to fulfil their obligations under the law. .

VOLVO C30 1.6	
Government contribution	£1,000 (new car)
Manufacturer's price	£17,000 (new car)
Additional state contribution	£2,000 (new car)
Total contribution	£3,000 (new car)
New QTR Price	£11,995 (ex. VAT)

THE VOLVO SCRAPPAGE OPEN WEEK STARTS 12TH JULY

FUEL CONSUMPTION FOR THE VOLVO C30 1.6 (Petrol): 10.9MPG (23.1L/100KM) URBAN 12.4 (19.7), EXTRA URBAN 6.6 (11.1), COMBINED 10.4 (11.0), CO2 EMISSIONS: 147 G/KM

Figure 20: Volvo C30, UK

Source: *The Guardian*, 7 July 2009, p 8

This UK advert for the Volvo C30 1.6 contains a few elements of “better” practice.

Good points:

- *The CO₂ and fuel consumption information is presented for a single variant of the C30 model, therefore there are only single figures listed and not a range.*
- *The information is printed in bold text and in capital letters to make it stand out.*

Bad points:

- *The metric units for fuel consumption have been incorrectly listed as litres/km instead of litres/100 km.*
- *All three test cycles have been listed, however it would be better just to give the combined figure, as is already practised in some member states.*
- *The font size should be as large as the new QTR price shown at the top of the page.*

b) Point of sale

For this part of the study, we visited 98 car dealer showrooms, spread out over a three-month period. We followed the methodology outlined above in **Section 3** and checked for the following three requirements as laid out in the Directive: that a label with the fuel economy and CO₂ emissions was attached to or displayed in a clearly visible manner near each new passenger car model at the point of sale; that a comparative poster or display was prominently displayed, using the agreed EU format, with a list of the official fuel consumption and CO₂ emissions data for all new passenger car models displayed or offered for sale or lease at or through that point of sale; and that all promotional literature contained the official fuel consumption and the official specific CO₂ emissions data of the passenger car models to which it refers.

The results of the survey of car dealership showrooms are detailed below in Table 8. We found that **79%** of the new cars in the dealerships had CO₂ data visibly displayed on a label either on or beside the vehicle. In **21%** of the cases, the label was either poorly displayed or there was no label at all. Only **38%** of dealerships had a comparative CO₂ poster clearly displayed, and only **61%** of the promotional brochures included the CO₂ information of the vehicle.

Following are examples of best or “better” practice for each of these three elements.

Table 8: Analysis of car showroom visits over 2 month period

		France	Germany	Italy	Spain	UK	Total EU
	Total number of showrooms visited	23	24	13	22	16	98
Labels	Compliance: CO ₂ info clearly displayed on or near car	87%	83%	92%	68%	63%	79%
		20	20	12	15	10	77
	Non-Compliance: CO ₂ info not displayed or poorly displayed	13%	17%	8%	32%	38%	21%
		3	4	1	7	6	21
Posters	Compliance: Comparative CO ₂ poster clearly displayed	83%	4%	54%	0%	63%	38%
		19	1	7	0	10	37
	Non-Compliance: Comparative CO ₂ poster not clearly displayed	17%	96%	46%	100%	38%	62%
		4	23	6	22	6	61
Brochures	Compliance: CO ₂ information contained in free printed brochures	100%	*	92%	77%	50%	61%
		23	*	12	17	8	60
	Non-Compliance: No CO ₂ information contained in free printed brochures	0%	*	8%	23%	50%	14%
		0	*	1	5	8	14

* In Germany, the group only reviewed the available literature from 6 showrooms (out of 24). They found that four of the free brochures contained the CO₂ information, some with the information quite prominently displayed (Toyota IQ). However, 2 of the dealership brochures didn't advertise the CO₂ information in the brochures themselves, but relied on an additional technical handout available upon request (Opel Corsa and Hyundai i10)

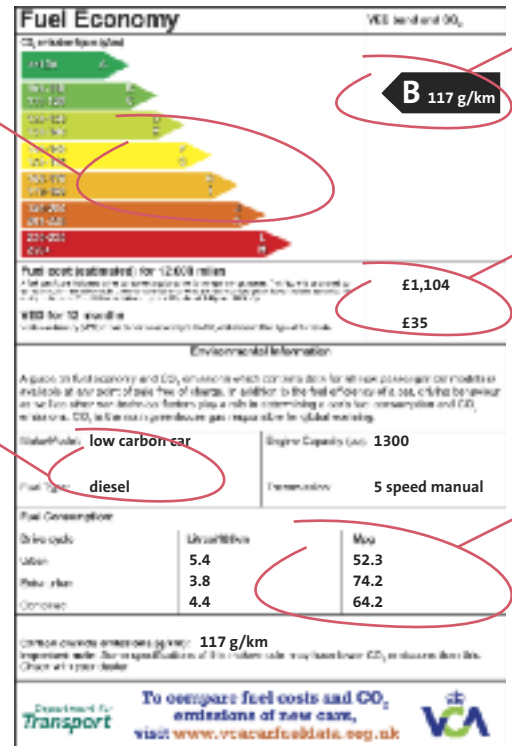
1. Display of the label

The Directive calls for a standard A4-sized black & white label with CO₂ emissions and fuel economy figures. In three member states, France, Italy and the UK, examples of “better practice” have emerged: they have developed coloured labels resembling the energy efficiency labels used for white goods. The colour-coded label makes it easier to view and understand the CO₂ emissions of a vehicle on a scale from low to high with ratings A to G; a green band represents the A-rated vehicles with the lowest emissions and the red band for the G-rated highest-emitting vehicles. In some instances, for example in the UK, the coloured bands on the scale are linked to the vehicle excise duty tax bands, while in France they are tied to the Bonus/Malus tax system and scrapping programme.

Figure 23 shows the UK’s colour-coded Fuel Economy label, which has been adopted on a voluntary basis by over 90% of carmakers. The label goes beyond the requirements of the Directive, and illustrates the UK VED tax bands on an absolute scale, and clearly shows where the vehicle is rated according to that scale. Also included in the label are the annual tax fees and the running costs for fuel, based on a standard average distance. This additional information is extremely useful for consumers as it allows them to make an informed choice based on a variety of relevant criteria.

Thirteen VED bands The figures on the coloured arrows (A-M) indicate the 13 ranges of emissions by g/km that correspond to levels of annual Vehicle Excise Duty (VED or Road Tax). Low carbon-emitting cars pay less tax. The lowest – Band A – pay no tax.

Make, model and engine details The vehicle make, model, fuel type, engine capacity and transmission type are all listed. Together they determine the CO₂ emissions and running costs.



CO₂ emissions figure The black arrow points to the vehicle’s relevant band of CO₂ emissions on which Vehicle Excise Duty (VED or Road Tax) is based.

Running costs Average yearly fuel costs are calculated and displayed together with the relevant level of Road Tax. Figures updated with recent prices.

Fuel consumption Shows how efficient the car is in miles per gallon and litres per 100km in town, country and combined driving situations.

Figure 23: The Fuel Economy Label Explained

Source: Low Carbon Vehicle Partnership, www.lowcvp.org.uk



2. Display of the poster

In many cases, we found that the dealerships failed to display the comparative CO₂ poster; there were none in any of the Spanish dealerships visited, and virtually none in Germany. We also discovered cases where the poster was hidden behind a plant or in the back of the showroom beside a water cooler. The Directive clearly states that the poster must be centrally located and easy to access. One of the best practices was observed in the UK: the BMW dealership in London had the comparative poster clearly displayed next to the sales desk at the entrance to the sales floor.

3. Information in brochures

Although brochures fall under the category of promotional literature, because they are usually found in dealer showrooms, we have included them in the analysis for the materials at point of sale. We discovered that many of the brochures we examined didn't actually contain the CO₂ and fuel economy figures. In Germany, some dealerships handed out a separate 'technical sheet' which also included the CO₂ data. In other cases, for example in the UK, the dealer didn't have any brochures but agreed to send them in the post; another offered to send an electronic file. We found 100% of the French brochures contained the CO₂ info. The best practice we have seen were brochures with the CO₂ information very prominently displayed in a large and clear font, as illustrated below in Figure 24.



Figure 24: Citroën C3 Picasso Brochure, ITALY

Source: Citroën Sicar Style Dealer, Florence, 30 June 2009, p 1

In this brochure from Italy, the CO₂ emissions for the Citroen C3 Picasso are clearly displayed in a blue box. Also, this information is in the main brochure, not in a separate handout or electronic download from a website. However the fuel consumption figures should also be listed here.

4. Availability of annual guide

Although in general we did not examine the availability of the annual guide during the dealership visits, we have observed some better practices throughout the work of our campaign. In Belgium, Germany, Italy and the UK, an electronic version can be accessed through the website of the appropriate national body. In France and Spain, not only is a downloadable version of the guide available, there are also online tools and calculators to allow easy consultation and comparison of various brands and models through the national database, which allows consumers to choose the most efficient car in relation to their specific needs.

05

Short-term recommendations – reinforcing the effectiveness of current framework



As our study only considered the situation in six of the EU member states, it is important that there is further investigation into the situation in other EU countries. The levels of compliance and enforcement in the other member states needs to be examined and monitored to determine what other issues and problems exist and see where there might be other examples of best practice. In the meantime, based on our own research, we recommend the following steps to increase the effectiveness of the current Directive and to ensure that it meets its aims.

1. Enforcement and compliance

As we highlighted earlier in the report, the lack of compliance and enforcement are big problems and go against the intention of Directive 1999/94/EC. In order to ensure that the objectives of the legislation are being met, we recommend a number of different measures that can be taken in the short term.

First and foremost, the obligations of the member states need to be clarified as well as the rules and responsibilities involved. Errors in the national transpositions also need to be corrected so that all countries are following the regulations as they were originally intended. The Commission should also provide guidelines on implementation and enforcement.

As stated in Article 8 of the Directive, the member states should appoint a “competent authority” to be responsible for the implementation and functioning of the scheme. To ensure the highest degree of objectivity and impartiality, as well as the greatest efficiency, the role of monitoring and enforcement should be the duty of a single governmental or national administrative body. Furthermore, the responsibility for promotional materials and car showrooms should not be split but should be part of the same brief for a single authority. The member state should also make sure that the national body appointed has sufficient resources to fulfil this task, as NGOs and consumer groups should not be playing the role of watchdog in lieu of the member states. However, in the event that environmental NGOs or individual citizens wish to file

complaints against an advertisement which is non-compliant or against a dealership which has not met its obligations, they should be able to do so and this activity should not be limited to consumer groups.

The national body should clarify the obligations of the Directive to the carmakers and advertisers and provide detailed guidelines to prevent misinterpretations and to give examples of best practice. Once this has been communicated, there should be regular monitoring to ensure that there is compliance and appropriate action when there is not.

There must be a clear process for penalties, and fines must be dissuasive and proportionate. For example, penalties should be based on the level of violation, i.e. missing fuel consumption/CO₂ information, text too small, misleading elements, and whether it is a first offence or a repeat violation. The amount of the fine could also be set as a minimum percentage of the cost of the advertising campaign, i.e. 5%-10% of the expenditure on the campaign.

Although self-regulatory bodies should not have the role of monitoring compliance and enforcement, they do still have a role to play. They can contribute to drafting guidelines and help to communicate them to the carmakers and advertisers. They can also act in an advisory capacity by highlighting examples of good and best practice, developing codes of ethics and offering a service to review advertisements and other materials to check for compliance before publication.

2. Promotional literature

The recommendations below apply to all forms of promotional literature. Throughout the report we have mainly looked at advertisements in magazines and newspapers and on billboards, however these should also cover any type of printed promotional materials. It is important to emphasise that this would include editorial style “feature adverts”, as well as the split and teaser adverts which were discussed in the analysis in Chapter 4.

a) Main body of information

Precise guidelines are needed which define exactly what should be considered as the “main body of information” in the advert and should be standardised across the member states. Any information which lists pricing or leasing terms, technical specifications, or any other details which have an asterisk before them or appear as a “footnote” in the advert should not be considered as the main body of information. This will avoid a minimalist interpretation on the part of the carmakers and advertisers. We recommend that the information which is next in size after the slogan be considered as the main body of information. For graphical ads where there is no information other than the logo, and therefore there is no “main body of information”, we suggest that a minimum size be set and that this too should be standardised.



b) Superficial contact

Again there needs to be a clear definition of “superficial contact”, which should be standardised across all member states. This would include setting a minimum size for the CO₂ and fuel consumption information, but also making sure that the figures are clearly identified as “Official fuel consumption (litres/100 km): CO₂ emissions (g/km):...”. Simply listing the figures and units is not sufficient to ensure that the information is easy for consumers to read and understand. The UK has established a requirement that the information on billboard adverts should be clearly visible and easy legible by a person standing across the road. We recommend that all member states adopt this criteria.

c) Placement

The information on fuel consumption and CO₂ emissions must be placed in a space in the advert where it is easy to read and understand, and where it will be clearly visible and attract the eye. It has become a general practice in most advertising to display relevant information at the bottom of the advert, and consumers know to look there. When information is placed somewhere else, i.e. at the top or along the side, it is much more likely that it will be overlooked, particularly if the consumer has to turn the image or their body in order to see it properly.

The location of the information therefore needs to be standardised across all member states and placed in a designated space in the advert where it is not hidden from the eye and where consumers know exactly where to find it. One should not have to examine the advert in detail to try to locate the information.

For billboard adverts, the information needs to be placed in a space where it can be clearly seen above street furniture or

billboard fixtures. Adverts displayed on bus shelters or in transport stations should have the information in a sufficient size and in a space where consumers can easily see it without having to bend down or strain to read it.

When the CO₂ emissions or fuel consumption is highlighted within the image of the advertisement, this does not substitute for the official mention at the bottom. As mentioned already in the recommendation above on superficial contact, it must be clear what the numbers in the image signify, and there must still be text at the bottom of the advert stating the official figures.

d) Segregation

In order for the information to be easily legible and visible and for it to catch the consumer’s eye, it should be segregated from other text, i.e. it should be separated and not hidden in with any information on pricing, leasing rates, technical specifications, scrappage scheme offers, etc. When different models are advertised together, there should be a separate line for the CO₂ and fuel consumption information for each individual model.

e) Ranges

Greater emphasis needs to be placed on the requirement that only the worst figures for the fuel consumption and CO₂ information should be listed when several variants of a single model are advertised. (note: in the UK, the highest figures are actually the best not the worst, therefore this should be clearly laid out to avoid using this as a loophole). We would recommend that the same rule apply when multiple models are advertised, that is that instead of having a choice of listing the worst figures or displaying a range between the lowest and highest, that only the worst figures be given.

f) Test cycles

For promotional literature such as adverts in magazines, newspapers, or on billboards, using the official figures from only one test cycle, i.e. combined, would improve the legibility and understandability of the information. For any other promotional literature such as brochures, posters and websites, the official figures should be listed for all three test cycles, i.e. urban, extra-urban and combined. The test cycle chosen for use in advertising should be standardised across all member states. Furthermore, the terminology should be used consistently; for example, it should always say “combined” cycle and not “mixed” in order to enhance the understandability for consumers.

The units used for fuel consumption figures should also be consistent across all member states and for all carmakers, litres/100 km should be used and not km/litre. Otherwise the numbers can be too confusing for consumers and do not allow for meaningful comparisons; for example, if the equivalent of 6.9 litres/100km were listed as 14.5 km/litres, consumers could be misled into thinking that a particular model was much more fuel-efficient than is actually the case. In addition, the units of the figures should be listed only once, rather than after each set of numbers in the case where several test cycles are shown, i.e. “official fuel consumption figures (litres/100 km): Urban 6.9, Extra-Urban 5.1, Combined 5.7”.

g) Font style/colour

As well as being the same size as the main body of information, the fuel consumption and CO₂ information should also be in the same font style and colour, except in the case where the colour would reduce the relative visibility of the text. Generally to enhance the legibility of the information, the text should be in a black font or in a colour which will contrast with the background.

Where the main body of information or other text in the ad is in bold, the fuel consumption and CO₂ information figures should also be, so that they have equal prominence. Green text should be avoided as it can be misleading, especially where environmental claims are being made.

h) Article 7

Clarification is needed here to outline exactly which marks, symbols and inscriptions are prohibited and how they might cause confusion to potential consumers. There is also a need for guidelines for framing the use of green claims in order to avoid misleading statements and greenwashing.

3. Point of sale

Unlike with the promotional literature, the duties of car dealers are much more clearly defined. Therefore there is no excuse for failing to meet the obligations and we would expect that levels of compliance should be much closer to 100%. The car manufacturers should be providing assistance and guidance to their dealers to ensure full awareness of the requirements and to make sure that they are being followed. The national authorities in charge of monitoring and enforcing the regulations should be performing checks on a regular basis to ensure that showrooms are fulfilling their obligations and that all elements are equally important.

a) Label

The format of the label needs to be clearly defined and standardised. Currently only France and Spain have included guidance about the label in their national transposition of the Directive. The UK has a voluntary code for use of their label, which has a 90% adoption rate, however there are still some carmakers and dealers which have not

taken it up and therefore consumers are not getting complete information in all cases. There should be precise details and comprehensive guidelines for the label, i.e. what it should look like, what relevant information should be included, etc. We recommend a single, standard label format across member states, which includes colour bands with the associated letters A to G for the fuel consumption and CO₂ emissions, running costs, tax fees, technical specifications, and environmental information. There are already examples of best practice from other countries, which should be highlighted when member states are defining the format for their label (see Figure 23 for an example of the label used in the UK).

In addition, it is important to note that according to Article 2, Paragraph 4 of the Directive, “point of sale” also includes any location where new passenger cars are displayed with the intention of promoting them. Therefore the label must also be present on or beside any vehicles displayed at motor shows, trade fairs, in airports or train stations, and in shopping malls. It also applies to “prestige showrooms” and brand stores, such as those that sell merchandise but also have various models of their cars on display for marketing purposes.

b) Poster

The poster needs to be easily accessible in a central point of the dealer showroom where the consumer can view it easily without intrusion from the sales staff, i.e. it should not be hung behind the salesmen’s desks. As with the label, the format of the posters should be clearly defined and standardised so that they are easy to read and understand, in order to allow consumers to make meaningful comparisons from one brand to the next. The regular updates to the posters also need to be reinforced and should be done at least every six months or whenever a new model is launched, whichever is more frequent.

c) Brochures

The brochures are meant to thoroughly describe the model or models promoted; therefore they should also include the complete information on fuel consumption and CO₂ emissions. We recommend reproducing the fuel efficiency label in the brochure, or at a minimum to include all the information from the label, such as the fuel consumption figures for all three test cycles, the annual running costs, the tax band (where applicable), the environmental information, etc. There should also be some reference to the annual guide. Where brochures promote several different models, we recommend the inclusion of a comparative table such as the one displayed on the poster.

d) Annual guide

The mention of the annual guide on the poster and label needs to be reinforced, and should be on all other materials at point of sale, such as brochures, and on manufacturers’ websites. Where a website address is given for the guide, it should be the full website link for accessing and downloading the guide, not just the website for the national authority producing it or for the national body that enforces dealer compliance with the Directive. The carmakers must fulfil their duty to make sure that dealership staff are aware of the guide, that a hard copy is available for consumers in the showroom, that they can provide it to customers on request, and that they can give the website address for the guide to customers should they wish it for further consultation. There also needs to be concerted effort to create greater awareness with consumers about the availability of the guide. A further step could be to include mention of the guide in car advertising as well as on the posters and labels.

06

Long-term recommendations – revisions to the directive



The intention of Directive 1999/94/EC was to provide consumers with information relating to fuel consumption and CO₂ emissions in order to help them make more informed purchasing decisions, thereby aiming to shift the market towards more fuel-efficient cars. However, a number of studies have shown that the public does not connect CO₂ emissions with fuel consumption, nor do they understand the information in the format in which it is currently displayed in advertisements; therefore the Directive is not achieving its goals.

In 2008, a public consultation conducted by the European Commission¹⁰ found that over 2/3 of respondents asked for a graphical label for fuel consumption and CO₂ information with an A-G ranking from lowest to highest emissions. Quantitative surveys done by YouGov Plc in 2009¹¹ showed that only 31% of consumers understand the current format of information, with most unable to tell from text-based figures whether a car shown in an advert is a low, medium or high-emitting vehicle. The polls also showed that 67% of respondents in the UK and 76% in France preferred to have the required fuel consumption and CO₂ information displayed using a colour-coded energy label, a format which they found to be clear and easy to understand.

A UK report from Consumer Focus¹² released in June 2009 showed that when making purchasing choices, specifically those based on environmental factors, consumers want the following three elements to be present:

- Clarity – Terms which are ambiguous or overly technical are not widely understood or liked. The information must be easy to understand using clear and unambiguous language and imagery.

- Credibility – Results showed that there is widespread dislike of small text, asterisks and footnotes. The information must therefore be realistic, accessible and verifiable, and any claims made must be endorsed.
- Comparability – The information must be simple and meaningful, and must present like-for-like comparisons otherwise it ceases to provide consumers with any useful means of differentiation. The absence of meaningful comparisons, too many different labelling schemes, and comparisons that are not well understood can actually undermine the relevance and usefulness of the information.

The national groups taking part in the Car Fuel Efficiency Campaign conducted live, on-the-street, “Vox Pops” video-interviews during the summer of 2009¹³. The questions asked to the public were duplicates of those asked in the YouGov polls, i.e. whether the vehicles shown in advertisements were low, medium or high-emitting, first using the current format for the fuel consumption and CO₂ information and then with a colour-coded energy label. Again responses from interviewees showed that there is widespread confusion and misunderstanding about what the figures mean in their current format. However when presented with the same information in graphical format, respondents had a clear preference for the energy label and could correctly identify the level of the vehicle’s emissions.

While more research is needed to determine exactly how customers make their purchasing decisions, which is the ideal format for communicating the fuel consumption and CO₂ information to them, and how best to move them towards vehicles which are lower-emitting and more fuel-efficient, there is no doubt that the information must be simple and easy to understand and that graphical images are much more effective than those using plain text.

Based on the research that we conducted during 2009 as well as two years’ experience campaigning on the issues involved in Directive 1999/94/EC, we have found several areas where there is a need for improvements, and we therefore have a number of recommendations for revisions to the Directive.

¹⁰. An online public consultation on revision of the CO₂/cars labelling Directive 1999/94/EC was carried out between 02 June and 28 July 2008. Its aim was to gather public views on the effectiveness of current legislation and possible options for revision of its provisions. See http://ec.europa.eu/environment/air/transport/co2/pdf/consultation_results.pdf

¹¹. In the summer and autumn of 2009, YouGov Plc conducted online surveys in France, Germany, Italy, Spain and the UK which asked respondents to rate the emissions of a vehicle from an advertisement, first using the standard format currently in use, then using a colour-coded energy label. Respondents were then asked which format they preferred and found easier to understand.

¹². L Yates/Consumer Focus (June 2009) Green expectations: Consumers’ understanding of green claims in advertising

¹³. See www.drivingthechange.eu for the European compilation video of the interviews done in Belgium, France, Germany, Italy, Spain and the UK.



1. Energy efficiency label

In light of the findings from the studies mentioned above and our own campaign experience, our key recommendation is to introduce a comprehensive, standardised, colour-coded energy efficiency label to show the fuel consumption and CO₂ emissions of vehicles. This label should be included on **all forms of marketing and advertising materials** and in **any location where a vehicle is on display for promotional purposes**.

Figure 25 below shows an example of a possible energy label. It contains the information that should be included to make it as comprehensive as possible, in order to offer consumers a tool that is useful and relevant for their needs. This label is similar to the label currently in use in France and the UK (see Figure 23 in Chapter 4), and is based on the label that has long been in use for white goods and domestic appliances¹⁴.

As a minimum, the label should include the following information:

- Name of make and model of vehicle.
- Fuel type.
- Other relevant technical specifications such as transmission type, number of seats, etc.
- The coloured bands from A to G for the CO₂ emissions. Each band should state the range of emissions for that band. There should be an indication that A/green is low and G/red is high. Alternatively there could be a scale showing low emissions (A-B), medium emissions (C-D), high emissions (E-G).
- A coloured arrow showing the specific letter rating for that vehicle and the figures for its emissions.

- Detailed fuel consumption figures and CO₂ emissions figures for all three test cycles: Urban, Extra-urban, Combined.
- Annual running costs including tax fees and average fuel costs for a particular distance (which should be standardised and set either nationally or across all member states).
- Information relating to consumer rights, availability of the annual guide, how driving behaviour effects fuel consumption, and that CO₂ is the main greenhouse gas responsible for climate change.
- Space for further specifications relating to the fuel consumption, i.e. the fuel price used in the calculation for annual running costs, etc.

As more hybrid and electric cars are being introduced to the market, these types of vehicles should also be included on an energy label. However, we recommend that they be measured in kWh rather than rating their CO₂ emissions. The labels could also include other greenhouse gases and pollutants such as NOx, P10, etc.

In order for the label to be a useful tool for consumers, i.e. one that is meaningful, relevant, comparable and easy to understand, it should be measured on an absolute scale. A format using a relative scale based on weight or size will not have the desired result of shifting the market towards more fuel-efficient vehicles, as it is confusing and does not provide for a good overall comparison of a vehicle's emissions and fuel consumption. It is also misleading and creates a high risk of misunderstanding as it can lead consumers to believe that an A-rated SUV with CO₂ emissions of 170 g/km is more efficient than a C-rated small car at 125 g/km. Ranking a large, gas-guzzling vehicle with an A-rating does not give consumers the right message, nor does it encourage them to downsize their car.

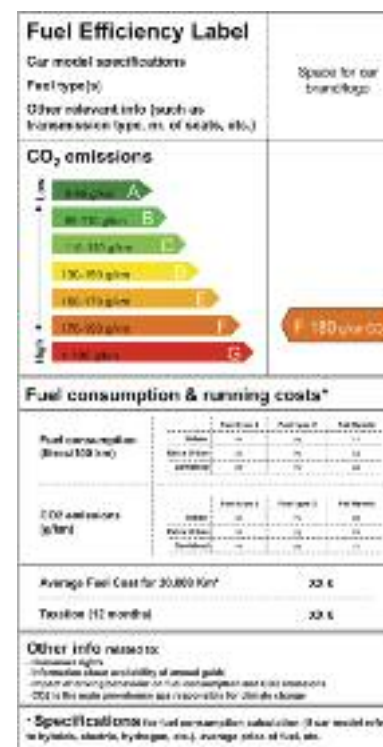


Figure 25: Sample car fuel efficiency label

14. See Directives 92/75/EC and 94/2/EC.

It is very important that the running costs and taxes are included in the label. We recommend that the A-G ratings should be linked to national tax policies. The figures for fuel consumption and CO₂ emissions will become more meaningful to consumers if they are connected to the charges that they will have to pay on an annual basis. If these links with the tax system are not introduced across member states, then we recommend that there be a single, European standard for the energy label, which would also allow for comparison between member states.

The full energy label, as shown above in Figure 25, should be included in all materials such as brochures, car manufacturer websites, or anything that consumers can watch or examine in detail. For advertising materials, an abbreviated version of the label could be used, but should include at a minimum the coloured bands and arrow for the vehicle's rating, the running costs and taxes, the availability of the annual guide, and the environmental information. A standard format should be chosen and used across the board for all materials in a particular country, and potentially across all member states.

15. B Lane/Ecolane Transport Consultancy (January 2010) Car CO₂ Internet Survey: How accessible is CO₂ information on car manufacturers' websites?

16. On digital TV, there is the option to ask for more information for programmes. The same feature should be available for advertisements, which would allow consumers to look up further details about the model being promoted.

2. Promotional materials

a) Range of media formats

The Directive currently provides requirements only for promotional literature and for vehicles on display at point of sale or at other venues. However, cars are marketed and promoted across a much wider range of media types and formats; all of these should provide consumers with the relevant information on fuel consumption and CO₂ emissions. Therefore we recommend that the Directive be extended to cover all types of direct and indirect promotional and marketing materials, including but not limited to the following:

- All internet advertising and promotions.
- All broadcast advertising – video adverts on TV, on screen in films and at cinemas, in metro stations, etc.; audio adverts on radio, online programmes, downloadable podcasts, etc.
- All digital advertising such as digital billboards and posters.
- All CDs/DVDs including advertising and/or for the purposes of marketing/promotions.
- All car manufacturer websites – we further recommend that the fuel consumption and CO₂ information should be no more than a single click from the main page of the relevant model.¹⁵
- All interactive materials such as internet sites, electronic screens, interactive digital billboards, and digital TV¹⁶ – the information should still be displayed according to the Directive guidelines and requirements for other materials, but with the option of “clicking” to get further more detailed information.
- All reports and reviews of vehicles, such as in auto magazines, on TV programmes, and on blogs and websites – whether these are produced by independent sources or as part of a sponsored promotion by car manufacturers.

There should also be minimum criteria for any new forms and applications of media or marketing practices, which may be developed following any revisions to the Directive, in order to ensure that all cases where cars are presented to the market for promotional and marketing purposes are accounted for and that all media formats include the fuel consumption and CO₂ information.

b) Dedicated space/time

We recommend that there be a standard, dedicated space or time allotted to displaying the CO₂ and fuel consumption information for all printed materials and all broadcast promotions. For press advertising, this should be at the bottom of the advert and should be set as a minimum percentage, i.e. 20% of the advert space should be dedicated to the fuel consumption and CO₂ information. Likewise, a minimum time should be set as a percentage for any broadcast promotions, such as 20% of the time or a minimum of 30 seconds for longer programmes, which should be at the end of the clip. For visual broadcasts, the CO₂ emissions and fuel consumption information should be in a full-screen view with the energy label and any accompanying explanation. Audio broadcast adverts should end with a mention of the energy rating A-G and whether this is low, medium or high; the exact value of CO₂ emissions and fuel consumption; reference to the annual guide; and environmental information such as CO₂ is the main greenhouse gas contributing to climate change.

Having a single, dedicated space or time for the required information will not only increase the effectiveness of the communication, but will also benefit consumers as it will provide them with meaningful information in an accessible and recognisable format which will help them to make more informed decisions.

3. Extentions of the directive

Due to the importance of clear, unambiguous information for all purchasing decisions, whether a vehicle is for personal or commercial use, the rules of the Directive should be extended to cover used cars as well as light-duty vehicles.

4. Reference guide

The European Commission should produce and distribute a reference guide to member states, the carmakers and advertisers with clear, illustrative guidelines which explain which practices are acceptable and which are not. This would limit the problems resulting from misinterpretations and reduce the number of violations and cases of non-compliance.

5. Approval process

Although a type of approval process is already in place in some member states, for example with the VCA in the UK, there needs to be an officially established service whereby carmakers and advertisers can submit advertisements and other materials to a central body for approval prior to publication or broadcast in order to ensure that they have fulfilled the obligations of the Directive and that there are no areas of non-compliance or any breaches of the regulations.

6. Penalties

Although we have already made recommendations relating to penalties and fines in the previous chapter, we recommend additional measures that could be implemented and stronger deterrents that could be introduced to ensure greater compliance and to prevent ongoing violations. We suggest that violations should be penalized by fines expressed as a percentage of the total car advertising campaign's financial value. Furthermore, when an advertising campaign is found to be non-compliant with the Directive, it should be pulled immediately; that is, the campaign should be withdrawn from any further publications, as well as taken down from any billboards, and should not be allowed to run on any further broadcasts. Finally, the carmaker should issue a retraction or some form of apology making reference to the Directive requirement that was violated.



Annexes

1. Annex – History of complaints

Belgium

The Advertise CO₂ campaign in Belgium was a joint effort of staff from Friends of the Earth Europe, Fédération Inter-Environnement Wallonie (IEW), and an academic at the University of Liège, who had been working on the issue of car advertising. In 2008, there were 310 complaints filed against car advertisements through the Belgian Advertise CO₂ site for lack of information on fuel consumption and CO₂ emissions. The complaints and accompanying adverts were submitted to the Jury d’Ethique Publicitaire (JEP – the Belgian advertising regulator) and the Service Public Fédéral (SPF – Belgian administration for the economy). In about half of the cases, the JEP or SPF found that the advertisements were non-compliant. On 25 June 2008, the Belgian coalition submitted a joint complaint to the European Commission to highlight the lack of compliance with the Directive. The Commission sent a request for additional information to the Belgian government on 1 August 2008, and subsequently sent formal notice on 14 April 2009 that they would be starting infringement procedures due to incorrect transposition of the Directive’s requirements. IEW received a letter from the Commission on 18 November 2009 saying that they wanted to close the file, to which IEW replied on 3 December 2009 requesting that the file be kept open, as there were still problems with compliance in Belgium. In January 2010, another 205 complaints were submitted to JEP and the SPF for advertisements run in a number of free newspapers which did not comply with the Directive, either for not including CO₂ and fuel consumption information or because the text was too small. The reply so far from JEP has been that although the carmaker/advertiser had expressly requested that the information be included, it was the publication that omitted to include the information. This creates a risky precedent that

places responsibility on a publication to ensure that any required information is included in advertisements, rather than on the advertising agency or the company initiating the campaign.

France

A coalition of French groups – Agir pour l’Environnement (APE), the Fédération Nationale des Associations d’Usagers de Transports (FNAUT) and Réseau Action Climat (RAC) – Advertise CO₂ campaign for advertisements in which the text for the CO₂ and fuel consumption information was too small. The complaints had also been filed previously with the Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes (DGCCRF – the French organisation for competition, consumption and repression of fraud) and the Bureau de Vérification de la Publicité (BVP – the advertising regulator) in France. On 30 January 2009, APE received a reply from the Commission rejecting the complaint as they did not find the text to be less prominent than the main body of information. APE were given one month to provide further evidence otherwise the complaint would be dismissed. A letter was sent back to the Commission on 28 February 2009 with counter-arguments and additional images as evidence. As of February 2010, APE has received no further response from the Commission or any update as to whether the case has indeed been dismissed or whether it is still ongoing and being investigated. It is important to note that Italian and Spanish advertisements submitted to the Commission at the same time, in which the text was of a similar size, were found to be non-compliant. This highlights the inconsistencies in judgments and decisions from one country to the next.

It is also important to note that in conversation with a representative from DGCCRF, the APE campaigner was told that

the authority puts more focus on enforcement at car dealerships as they do not believe that there is enough legal certainty in the Directive for the national administrative body to address the issues in complaints against advertisements.

Germany

On 25 June 2008 the German group BUND (Friends of the Earth Germany) submitted a complaint to the Commission and the EU Representation office in Germany (Vertretung der Europäischen Kommission in Deutschland) regarding the incorrect transposition of the Directive. The interpretation of the German law states that car adverts which don’t mention the engine size or power are exempt from having to list the fuel consumption and CO₂ emissions information. A sample of six adverts from three different magazines and one from a billboard were provided as evidence to support the complaint. The Commission replied on 4 August 2008 to inform BUND that the complaint had been assigned case number 2008/4691 and that it was being combined with a previous complaint about the transposition (2008/4321 from Deutsche Umwelthilfe) and both the complaints would be investigated together. After no further communication from the Commission, BUND sent a follow-up letter in January 2009 to enquire about the status and received a response on 12 February 2009 that the Commission was still working on it. BUND has received no further communication or updates from the Commission as to the status of the complaints or any indication as to when a decision can be expected.



Italy

Two groups in Italy have been working on the issue of consumer information in car advertising – Amici della Terra (Friends of the Earth Italy) and Terra! – each of which conducted their own studies to investigate the status of compliance with Directive 1999/94/EC in Italy, and each of which has submitted complaints against non-compliant advertising.

Amici della Terra (AdT) filed a complaint to the Commission on 25 June 2008 along with the other groups working on the Advertise CO₂ campaign. They also submitted a copy of their report *Pubblicità Regresso* released in May 2008¹⁵, which found that only 6.4% out of 511 car adverts in the Italian print media complied with Directive 1999/94/EC. On 24 September 2008, AdT received a response that EU representatives in Italy were investigating the complaint. A follow-up letter was sent to AdT in April 2009 informing them that the EU had opened infringement procedures against Italy and that an infraction had been issued for not implementing or enforcing the Directive sufficiently.

Terra!'s report, *Venditori di fumo*, had the specific objective of bringing further attention to Italy's lack of adherence to the Directive: their analysis of 492 car adverts showed that 91.3% were non-compliant¹⁶, only a slight improvement over Amici della Terra's findings the year before. On 2 July 2009 Terra! filed complaints against 96 of the non-compliant adverts with the Istituto dell'Autodisciplina Pubblicitaria (IAP – the advertising self-regulatory body), the Unioncamere (the national governing body for the Chambers of Commerce) and the Chambers of Commerce of the seven cities in which the adverts were collected. At the same time, copies of their report were submitted to each of these bodies as well as to the Italian Ministry of Economic Development, DG Environment at the European Commission, and the Italian Automobile Club. The IAP

responded that responsibility for enforcement of the Directive was up to the Italian Ministry of Industry and the Chambers of Commerce and that the adverts in question did not go against their own code of ethics. The reply from the Chambers of Commerce showed that the Florence Chamber was not aware of the law, some of the other Chambers knew of it but were only monitoring newspapers, and others had monitored car dealers in the past but were no longer doing so. The situation was somewhat better in the north of Italy where the Padova and Milano Chambers of Commerce have set up protocols for monitoring print adverts/newspapers, billboards and dealerships. However, in general, the Chambers of Commerce reported that they don't have enough resources to dedicate to monitoring and enforcing compliance with the Directive. The result was that some fines were levied, but only in amounts ranging from €250 to €1000; in a few other cases, there were infractions for some of the adverts in newspapers. However, there was no resolution on any cases of non-compliance for billboards or car dealerships.

15. The study analysed car advertising in 12 daily newspapers, 10 weekly magazines and on 7 national TV networks during two separate one-week periods from 9-16 November 2007 and 4-10 April 2008. As well as taking into account whether the adverts complied with Directive 1999/94/EC, the study also examined the emotional messages, environmental claims, and the frequency of ads promoting high-emitting versus low-emitting vehicles.

16. Between 28 March and 5 April 2009, 286 print adverts were collected from 16 daily newspapers, 8 daily regional/local newspapers and 6 weekly general interest magazines; 57 adverts from 7 motoring magazines; and 149 billboard adverts from seven cities: Bologna, Firenze, Milano, Napoli, Padova, Roma and Torino. Of the non-compliant adverts, 5.7% had no fuel consumption or CO₂ information, while 85.6% had the information but it was neither legible nor easily understandable.

Spain

The Spanish group, Ecologistas in Acción, sent a series of letters to the CEOs of a number of different carmakers in April 2008, informing them that they were violating the Directive because the fuel consumption and CO₂ information in their press advertisements was too small. In general they received no response and therefore filed complaints against these adverts on 14 May 2008. The complaints were submitted to the authorities in three of the autonomous regions – the Dirección General de Consumo de la Comunidad de Madrid, la Dirección General de Aragón, and the Agencia Catalana de Consum – based on the location of the headquarters of the carmaker¹⁷ who produced the advertisement. Also in May 2008, Ecologistas and the Unión de Consumidores de España (Spanish Consumer Association) submitted a complaint against Peugeot to the national court for lack of compliance with the Directive in their advertising. Then on 25 June 2008, Ecologistas took part with the other national groups in the Advertise CO₂ campaign and filed a complaint to the Commission, including samples of non-compliant adverts from Spain. An additional series of complaints were filed jointly by Ecologistas en Acción and the UCE on 13 February 2009¹⁸ for displaying the required information in a font size that was too small.

17. Complaints were submitted against Citroën, Hyundai, Mercedes-Benz, Peugeot and Renault/Dacia in Madrid; against Honda, Nissan, Seat and Volkswagen Audi in Catalonia; and against General Motors in Aragón.

18. Complaints were filed against BMW, Jaguar and Skoda.

As a result of the complaints submitted to the regional bodies, General Motors in Aragón acknowledged that their advertisements were non-compliant and have increased the size of the fuel consumption and CO₂ information since then. In January 2009, eight months after the complaints were originally filed, the Catalan authority issued infractions against the four carmakers for non-compliance. However, the Madrid authority rejected the complaints in the same period, as they felt that there had been no violations of the Directive. For the complaint submitted to the national court, Ecologistas received a response in September 2008 that the case had been reviewed and would be taken forward to trial. The court date was originally set for November 2009 but has been delayed and a new date is still to be set. The Commission opened infringement procedures against Spain for non-compliance and further notified them in February 2010 that they have two months to put forward their case or they risk fines. There has still been no response regarding the complaints filed in February 2009. Ecologistas is not able to follow up on the case or request a status update as the process of filing complaints and following up on them can only be done by consumer groups. Unfortunately the person who was originally working on this issue at the UCE has left and no one has taken over the dossier, therefore Ecologistas are not able to get any further information from the Spanish body dealing with the complaints.

The problems inherent in the Spanish system are the lack of consistency and objectivity across the regional authorities, with one body deciding against the carmakers for violating their requirements, while another body decides in favour of the carmakers on exactly the same issue. The other problem is that filing complaints is limited to consumer associations, therefore environmental NGOs, concerned citizens or other groups working on the issue must work in tandem with a consumer organisation in order to submit a complaint, but also in order to follow it up.

UK

In November 2007, We Are Futureproof (previously the Alliance Against Urban 4x4s) hired a solicitor to provide a legal brief of the Directive and the UK transposition, as well as the guidance notes produced by the Vehicle Certification Agency (VCA). The lawyer found that there was a loophole that allowed advertisers to omit the CO₂ and fuel consumption information from billboards and graphical advertisements. We Are Futureproof (WRFP) submitted a letter to the Secretary of State for Transport and the VCA on 18 March 2008 to correct the guidance notes. At the same time, they also made a Freedom of Information request to try to uncover a lack of enforcement by the VCA.

On 28 April 2008, WRFP wrote formal letters to the CEOs of all the major UK car companies to notify them that they were in breach of the Directive and were liable under UK law for publishing illegal adverts. Many replied that they had submitted their advertisements to the VCA before they went to print and that they had been approved. Following this, in May 2008, WRFP sent a legal formal challenge to the UK government and the VCA threatening judicial review.

WRFP attended a stakeholder meeting on 27 August 2008 with the Department for Transport and representatives from various advertising bodies in the UK. The government representative announced that the UK practice was not in line with other EU member states and therefore they would be changing the guidance notes. In January 2009 the revised guidance notes were formally introduced, stating that all print adverts were required to provide the CO₂ and fuel consumption information and that the information on billboards must be easily readable by a person standing on the other side of the road. The guidance notes then came into full effect in April 2009. WRFP continued to monitor press adverts and billboards and found that by May

2009 most outdoor billboards were displaying the required information, however it was in a font size that was too small. They therefore continued to put pressure on the VCA to enforce the guidelines.

In October 2009, WRFP had a meeting with the VCA and the Department for Transport to discuss car advertising in the UK. Although most billboards by then had the fuel consumption and CO₂ information, there were still cases of non-compliance and often the text was too small. At the same time, WRFP also questioned the practice of displaying a range of figures for a single model, which goes against both the Directive and UK law. They are still awaiting further action on this issue.

WRFP submitted another Freedom of Information request to the VCA in early December 2009 to review the correspondence and resulting action on the complaints that they had made against various car advertisements. A response is expected in early 2010.

During WRFP's work on this issue, and in particular while reviewing previous correspondence the VCA has had with car manufacturers and advertisers, they found that several of the carmakers have received multiple "warnings" for non-compliance although often for different models and are therefore pleading ignorance and using the excuse that different people work on the dossiers, that they were unaware of the regulations, but they would make sure that the staff in question were updated. There were no instances of any of the carmakers being charged with any penalties or fines. WRFP also observed that there seemed to be little if any monitoring or enforcement of the Directive's advertising requirements by the VCA, and any cases of non-compliance seemed to come to the attention of the VCA and then dealt with only as a result of complaints submitted by WRFP.

2. Annex – List of publications used for the survey between 15 - 21 june and 6 - 12 july 2009

Belgium

Newspapers: De Morgen, Het Laatste Nieuws, Le Soir

Magazines: Che, Automobile, Het Nieuwsblad, Knack, Le Vif L'express

France

Newspapers: Le Figaro, Le Monde, Aujourd'hui en france

Magazines: GQ, L'Auto-journal, Le Point, Men's Health

Germany

Newspapers: BILD, Frankfurter Allgemeine, Sueddeutsche Zeitung

Magazines: SPIEGEL, Men's Health, Auto, Motor und Sport

Italy

Newspapers: La Repubblica, Il Corriere della Sera, Il Sole 24 Ore

Magazines: L'Espresso, Max, Quattroruote

Spain

Newspapers: ABC, El Mundo, El Pais

Magazines: Autovia, FHM, Marca Motors, Muy Interesante

UK

Newspapers: The Guardian, The Telegraph, The Daily Mail

Magazines: Men's Health, New Scientist, What Car?

3. Annex – List of cities where billboard samples were collected for the survey between 15 june and 20 september 2009

Belgium Brussels

France Lyon, Mâcon, Paris

Germany Berlin

Italy Florence, Milan, Rome

Spain Madrid

UK London

4. Annex – List of dealers visited by country for the survey between 15 june and 20 september 2009

France

Mâcon: Alfa-Romeo, Audi, BMW, BMW Mini, Chevrolet, Citroen, Fiat, Honda, Lancia, Mitsubishi, Nissan, Opel, Peugeot, Renault, Saab, Skoda, Suzuki, Volkswagen

Varennes-les-Mâcon: Toyota

Sancé: Ford, Land Rover, Mercedes, Volvo

Germany

Berlin: Audi, BMW, BMW Mini, Bugatti, Fiat, Ford, Honda, Hyundai, Lexus, Mazda, Mercedes-Benz, Mitsubishi, Nissan, Opel, Peugeot, Porsche, Renault, Seat, Skoda, Smart, Suzuki, Toyota, Volkswagen, Volvo

Italy

Florence: Ford, Mercedes-Benz, Toyota, Volkswagen, Volvo

Milan: Citroen, BMW Mini, Opel

Rome: Audi, BMW, Fiat, Peugeot, Renault

Spain

Madrid: Audi, BMW, Golf (Volkswagen), Honda, Hyundai, Mercedes, Nissan, Opel, Peugeot, Renault, Ssangyong, Subaru, Toyota, Volvo

UK

London: Audi, BMW, BMW Mini, Citroen, Fiat, Ford, Honda, Jaguar, Land Rover, Nissan, Peugeot, Rolls-Royce, Saab, Toyota, Volkswagen, Volvo



Friends of the Earth Europe

