



## COMMISSION PROPOSES TO PROMOTE GREEN TRANSPORT VIA PROCUREMENT RULES

In January 2007 the European Commission unveiled its energy policy outlining a number of ambitious targets for EU energy consumption over the next 13 years. The targets are that by 2020 the EU will reduce its overall greenhouse gas emissions to at least 20% below 1990 levels; provide for a 10% biofuel component in its final consumption of vehicle fuel; and allow for a 20% share for renewables in its energy mix.

One of the strategies identified by the Commission to stimulate environmentally friendly innovation in the transport sector and assist the development of a market for clean and energy efficient vehicles is to encourage the public sector and some transport operators to buy such vehicles. Public procurement rules apply when the public sector, and in certain circumstances some utility and transport operators, acquire works, goods or services.

They are required to advertise the contract and carry out a tendering and award procedure in accordance with rules designed to open up public sector contracts to competition and to ensure equal treatment of candidates and to prevent discrimination on the grounds of a nationality. It is

estimated public sector purchases account for 1% of the market for new cars, 6% for vans and lorries and around 33% for buses.

In December 2007 the Commission put forward a revised proposal for a directive on the promotion of clean and energy efficient road transport vehicles, which introduces environmental aspects into the public procurement of vehicles. It requires public sector bodies and certain passenger transport operators in the EU to incorporate operational lifetime costs into the procurement award criteria for contracts for road transport vehicles. Operational lifetime costs mean "the monetised values for energy consumption, CO<sub>2</sub> emissions, and pollutant emissions that are linked to the operation of the vehicles to be procured" which are to be calculated in accordance with a methodology set out in the Proposal. The application of this award criterion is proposed to be optional until 1 January 2012 and thereafter mandatory.

The Proposal builds on a previous proposal from 2005 which was rejected by the Council and the European Parliament. The earlier proposal focused on heavy duty vehicles, while the revised version is

broader in the range of vehicles covered. The 2007 Proposal also includes wider objectives of energy efficiency improvement and carbon emission reduction, in addition to pollutant emission reduction suggested in 2005. If adopted it is expected to lead to "improvements in the overall environmental performance of the EU vehicle fleet".

The UK Government appears to be very supportive of the policy objectives behind the 2007 Proposal. The Parliamentary Under-Secretary of State at the Department for Transport, Jim Fitzpatrick, has expressed commitment to the development of new lower-carbon technologies, stating that the UK wants to be among the leaders in sustainable procurement by 2009 in order to achieve a low carbon, more resource efficient public sector.

**Please note this Brief aims to introduce you to legal issues of concern or interest: it is not a substitute for taking appropriate specialist advice in individual cases.**

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