

Department for Transport consultation on regulations to specify the drugs and corresponding limits for the new offence of driving with a specified controlled drug in the body above the specified limit

Response from Brake, the road safety charity

12 September 2013

About Brake

[Brake](#) is an independent charity working across the UK to make roads safer, prevent road death and injury, and care for victims. Brake carries out research into road users' attitudes and behaviour in relation to road safety, engages schools and communities to spread road safety education, disseminates international research, guidance and case studies to fleet and road safety professionals, and supports communities campaigning for road safety. It is also a national, government-funded provider of specialist support for people bereaved and seriously injured in road crashes, running a national helpline and providing packs that are handed to bereaved families by police following every road death.

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Response

Brake strongly welcomes the government's work to toughen up laws on drug driving, which is desperately needed. It supports the proposals outlined in this consultation, which Brake hopes will send out a clear message that drug driving will not be tolerated. Brake believes the government has made a fair judgement in differentiating between the different drug groups in order to clamp down on deadly drug driving, while meeting the needs of medical drug users following dosage advice and DVLA medical advice.

Option one

Brake agrees that option one is a good solution, which will ensure illegal and abused prescription drug driving is tackled by police, while drug driving on prescription drugs remains the remit of the DVLA medical team.

However, Brake urges the government to ensure the medical profession is fully briefed and on-board with reporting to the DVLA medical conditions treated with prescription drugs that may impair driving, and are proactively advising all patients when medication may affect driving and insisting on informing the DVLA. Brake is aware that at present medical professionals are often not delivering on their duty to advise patients on fitness to drive issues, or reporting patients who will not self-report to the DVLA¹. This must be addressed to fully tackle the issue of drug driving.

Cannabis

Brake agrees with the approach taken to cannabis, which is proportionate. Cannabis is the most prevalent drug, and known to significantly increase risk and cause crashes that kill and injure. In

¹ Road Safety Research Report No. 91 The Attitudes of Health Professionals to Giving Advice on Fitness to Drive, Department for Transport, 2010

Brake's view, if the government were not to take this approach, and set the limit above the prescription limit of Sativex, the new drug drive law would be undermined and not taken seriously by the public. Drivers who use Sativex are very rare, but cannabis use and driving is widespread and lethal. Therefore on balance, setting a zero tolerance limit is fair and proportionate.

6-MAM

Brake agrees with the suggested approach. Brake agrees it is concerning that drivers who have taken heroin may not be prosecuted because of the short half-life of 6-MAM making the collection of a positive evidential specimen difficult. Brake agrees it is right to set a zero tolerance limit despite this, to send out the correct message and allow prosecution in those cases where it can still be detected. However, Brake would also urge further commitment from government to help to address this problem. Brake recommends that the DfT work with police to ensure police policies and training are developed to ensure quick evidential testing, within a specified time period, for drivers suspected of heroin use. Brake also points out that if evidential roadside testing equipment is introduced it will counter the problem, so recommends the DfT prioritises introducing this equipment as quickly as possible. If there is any flaw in the enforceability of these drug drive regulations, it is likely to be quickly picked up by persistent drug drivers, so it is vital that countermeasures are put in place to prevent the short half-life of 6-MAM undermining the credibility of the new drug drive laws.

Amphetamine

Brake advocates a zero-tolerance limit for amphetamines for the same reasons as above for cannabis use. As stated, patients with ADHD should be on the DVLA database, and the DVLA medical team will have made an assessment if the person is safe to drive. This should provide a simple route for police to check for a medical defence.

As discussed above, Brake argues it is important to ensure proper reporting of medical conditions and medication that impairs driving to the DVLA in order for the new drug drive laws to work successfully and the issue of drug driving to be holistically addressed. Brake recommends the government reviews the effectiveness of the current system used to inform the DVLA of drivers with impairing medical conditions, which relies on patients self-reporting medical conditions, with the option for third-party reporting by medics or others should they decide to. We are aware that medical professionals are often not providing advice on fitness to drive as appropriate, and many medics are uncomfortable with reporting patients to the DVLA².

Communications to patients and medics

Brake welcomes the government's work with the Medicines Healthcare products Regulatory Agency (MHRA) to identify prescription medicines that would be affected by the new offence. Brake believes pharmaceutical companies should be required to include clear directions on medicine boxes and in patient information leaflets about whether patients should drive or not when taking their medication. MHRA should also be communicating information on the impact of

² Road Safety Research Report No. 91 The Attitudes of Health Professionals to Giving Advice on Fitness to Drive, Department for Transport, 2010

medications on ability to drive to healthcare professionals, patients and the public through its available channels.

Brake is concerned that no mention is made in the consultation of the role of the DVLA's medical team in working with MHRA. Brake argues it should be central to this process as all drivers on potentially impairing medicines are likely to be, or should be, be in the DVLA's reporting system. It's vital the DVLA works alongside MHRA to ensure communications to healthcare professionals, patients and the public include clear messages on the effects of conditions and medicines on driving, and the need to report medical conditions to the DVLA, as well explaining the types of medicines that will be affected by the new offence.

The DVLA needs to receive reports on which patients are affected by these medical conditions to assess if patients are safe to drive, and provide (or withhold) appropriate licences. Arguably, ensuring patients are in the DVLA's system will also mean it will be much less of an administrative burden to deal with enforcing the new drug drive regulations as decisions will already have been made as to patients' medical fitness to drive and should be easy to access through the DVLA. Brake would also strongly encourage clear and effective communication between police and the DVLA medical team for this purpose.

Brake advises that the government also encourages dissemination of this information through other key stakeholders, such as the British Medical Association, Royal College of Nursing and health charities.

THINK! campaign

Brake strongly welcomes the government's commitment to run a THINK! Campaign to deter drug driving alongside commencement of the new offence. Brake would welcome more details of the scope and reach of the campaign and would welcome the opportunity to feed into this process.

Option two

Brake is strongly opposed to option two, for reasons included in its [response to the expert panel report](#), submitted to the government in March 2013. Brake feels these limits would create weak regulations and send a message that people can get away with driving on illegal drugs.

Option three

Brake recognises the benefit of separating illegal drug use (and illegal misuse of prescription drugs) and legal use of prescription drugs in line with medical advice. This will ensure best use of police resources in targeting illegal drug use, while the regulation of medical drug use and driving will continue to fall to the DVLA. Therefore Brake does not recommend option three. However, it is very important that if option one is taken forward, provisions to ensure drivers who are on prescription medication which may be impairing when taken at advised levels, are reviewed and improved. As described above, there is clear evidence of medics frequently failing to provide advice to drivers on fitness to drive and not reporting drivers where necessary to the DVLA for

medical conditions where treatment may impair driving³. Brake strongly recommends tacking this issue at the same time as bringing in the new drug drive law, to help implementation of the new law, reduce the administrative burden of the medical defence, and ensure that all aspects of risky drug driving are being dealt with.

³ Road Safety Research Report No. 91The Attitudes of Health Professionals to Giving Advice on Fitness to Drive, Department for Transport, 2010