UK motorists sue Volkswagen over diesel emissions fraud

Stephen Alexander
12 March 2018

Almost 60,000 UK motorists are suing German auto giant Volkswagen AG (VW) over its central role in the “Dieselgate” emissions scandal that engulfed the car industry in 2015.

The case will commence this month at the High Court in London and will be one of the largest class action corporate lawsuits ever brought before British courts. A separate lawsuit is pending at the High Court in Belfast, Northern Ireland, where up to 70,000 VW drivers could be entitled to compensation.

In total, VW sold 1.2 million diesel vehicles in the UK fitted with the now infamous “defeat device” software designed to fool laboratory emissions tests. VW sold 11 million rigged vehicles worldwide between 2008 and 2015, of which nearly 9 million were sold in Europe.

Several VW models have been affected, including the Golf, Beetle, Jetta and Passat, as well as VW-manufactured Audi, Porsche, Skoda and Seat vehicles equipped with the firm’s Turbocharged Direct Injection “clean diesel” engines.

Independent road tests measuring real driving emissions revealed that the engines pump out lethal levels of Nitrogen Oxides (NOx) that exceed by as much as 40 times the legal limit in the United States (US), where VW’s emissions cheating was initially exposed.

New revelations emerged this year from a similar lawsuit in the US, exposing that the firm, together with German automakers BMW and Daimler, had financed pseudo-scientific diesel exhaust tests on humans and monkeys to counteract growing suspicions of emissions cheating in 2014. VW settled the class action last month for an undisclosed sum.

NOx, the main gaseous component of diesel exhaust fumes, is one of the principal ingredients in the formation of ground ozone or smog, and has been linked to several cancers, including lung and bowel cancer, as well as asthma, bronchitis and emphysema.

The diesel emissions fraud is in sync with the systematic flouting of air pollution targets by European Union (EU) member states. According to the *Guardian*, “23 out of the EU’s 28 countries and 130 of its cities” consistently breach legal air quality thresholds. This includes 16 UK cities, with London, Glasgow, Birmingham and Leeds among the worst polluters.

An estimated 40,000 premature deaths occur in the UK every year due to air pollution, which is also responsible for a staggering £20 billion in public health costs.

As with the Grenfell Tower Fire last June that killed 71 high-rise residents, the emissions scandal is yet another devastating expression of the human toll exacted by decades of pro-big business deregulation policies imposed by successive UK governments, Conservative and Labour alike, in collaboration with EU authorities.

The EU Parliament’s Directorate-General for Internal Policies carried out a self-incriminating study in response to Dieselgate. It concluded that European regulations are “more adapted to the task of ensuring that Member States do not use vehicle emissions legislation to penalise manufacturers from other Member States,” and promote “the free circulation of vehicles on the European market,” rather than serving to “optimise the effectiveness of environmental legislation.”

Indeed, nearly every major manufacturer and model of diesel vehicle has now been implicated in the emissions fraud.

Independent road emissions tests overseen by the International Council on Clean Transportation found that the Volvo S60, Renault’s Espace Energy, the Nissan X-Trail and FCA’s Jeep Renegade were among the highest polluters on the road and exceeded EU legal emissions—which at 80mg/km is double the US threshold for NOx fumes—by a factor of ten or more.

The engine management system containing the “defeat device”—manufactured by German engineering and electronics multinational Robert Bosch GmbH—is widely supplied across the industry.

Bosch is now fighting multiple class action lawsuits in the US over 1.5 million vehicles manufactured by VW, Daimler, Fiat Chrysler Automobiles (FCA) and GM. Ford also faces a lawsuit over the sale of some 500,000 pick-up trucks fitted with Bosch software that conceals NOx emissions more than 50 times the US legal limit.

Yet, only VW has been indicted by any government, and only in the US. VW reached a settlement with the US Department of Justice early last year, involving $4.3 billion in criminal and civil penalties and the prosecution of a handful of engineers and low-level executives. The firm has also agreed to buy back and fix 480,000 vehicles, at a cost of approximately $18 billion.

While this ruling is unprecedented in its severity, much of this money has already been recouped through tax write-offs and VW's ongoing onslaught against jobs, wages and conditions across its global workforce. The firm's profits doubled in 2017.

To place this in context, GM reached a token $900 million settlement with the Obama administration Justice Department in 2015, over an ignition switch fault, which killed 124 and injured 275, and affected 29 million vehicles across North America. The firm covered-up the defect for more than a decade and escaped criminal prosecution entirely.

The singling out of VW over Dieselgate is bound up with the sharply escalating trade war between America and the EU, particularly Germany. The global tariffs on steel and aluminium imports recently announced by President Trump represent only the latest salvo in this conflict, which is increasingly being fought out in terms of "national security" and backed by rival military build-ups. The car industry has emerged as a major target this week, with Trump threatening to "apply a tax" on cars manufactured in Europe if the EU retaliates with barriers against US exports.

In this context, the EU and its member states have stood firmly behind VW from the outset of the emissions scandal, shielding it from either criminal or civil penalties within Europe.

If comparable levels of liability were to be recognized across the Atlantic—where diesels accounted for 53 percent of new cars sold in 2015, compared to less than 1 percent of the US market—damages could reach the equivalent of many hundreds of billions of dollars and irreparably damage the strategic position of the entire European auto industry on the world markets.

The European Commission has asked only that Volkswagen repair the tainted diesel vehicles as a "commercial gesture" to help "counteract efforts to lodge civil claims for damages in member states."

VW has already received thousands of complaints over drastically reduced engine performance, fuel economy and even engine failure after the removal of the defeat device. According to confidential sources cited by *EUObserver*, preliminary tests conducted by EU scientists have revealed that emissions are in fact made worse by the software update.

The response of capitalist authorities in Europe and North America has been totally inadequate in addressing both the health crisis and financial costs to drivers. Besides VW, no other firm has been asked to recall or replace their cars.

Diesel bans, or charges have been proposed for a handful of cities, including London, Stuttgart and Düsseldorf in Germany, as well as Paris, Athens, Madrid, Copenhagen and Mexico City, in what effectively amounts to a massive subsidy to the auto industry at the expensive of the working class.

Millions, even those with relatively new cars, face either a drastic curtailment of their mobility or the considerable out-of-pocket costs and indebtedness involved in upgrading to a vehicle with the latest Euro 6 emissions standards (introduced in September 2015). In Germany, for instance, just 2.7 million of the 15 million diesel cars on German roads meet this standard. Resale values for diesels are also expected to plummet.

In the face of government inaction, European motorists have been forced to engage private law firms on a "no-win-no-fee" basis. The London trial has already been delayed for more than a year as rival law firms have fought for the lucrative right to represent claimants in UK courts.

Law multinationals, such as Australian firm Slater and Gordon, which is representing most claimants in this trial, together with third-party financiers, stand to benefit overwhelmingly from any forthcoming compensation. As the *Financial Times* recently explained, "a 150 per cent to 300 per cent return on investment from a successful case is considered typical."