



CTC Response to the Department for Transport's Consultation on changes to the Fixed Penalty Notice and penalty points for the use of a hand-held mobile phone whilst driving.

Introduction

CTC, the national cycling charity, was founded in 1878 and has 68,000 members and supporters. CTC's central mission is to make cycling a safe, accessible, enjoyable and 'normal' activity for people of all ages and abilities. Our interests cover cycling both as a form of day-to-day transport and as a leisure activity, which can deliver health, economic, environmental, safety and quality of life benefits both for individuals and society. We represent the interests of current and would-be cyclists on public policy matters.

CTC has given oral evidence to a number of parliamentary inquiries in recent years, including the Commons Transport Committee's inquiry on the Government's road safety strategy¹, a more recent inquiry on Cycle safety², and the 2013 'Get Britain Cycling' inquiry³ conducted by the All Party Parliamentary Cycling Group. We strongly endorsed the inquiry's 18 recommendations⁴, which led the Government to propose a draft Cycling Delivery Plan.

CTC has also recently given oral evidence to the Transport Committee's Inquiry into Road Traffic Law Enforcement, and welcomes the Government's commitment to "reduce the number of cyclists and other road users killed or injured on our roads every year."⁵ CTC's Road Justice Campaign (www.roadjustice.org.uk) seeks to ensure the legal system acts as an effective deterrent to bad driving, thereby improving road safety for all road users, and for cyclists in particular.

Consultation Questions

Question 1

Do you agree that driving whilst using a hand-held mobile phone is a dangerous activity?

CTC agrees that using a mobile phone, whether hand-held or hands-free, while driving is dangerous. It is also unnecessary. Drivers can switch off their phone and receive messages which they return later once they have stopped in a safe place.

¹ <https://www.ctc.org.uk/news/2012-07-17/road-safety-inquiry-highlights-lack-of-government-leadership-on-cycling>

² <https://www.ctc.org.uk/news/ctc-urges-mps-to-demand-action-and-funding-to-%E2%80%98get-britain-cycling%E2%80%99>

³ <https://www.ctc.org.uk/campaign/get-britain-cycling> and <https://www.ctc.org.uk/ministers-police-and-jon-snow-appear-appcg>

⁴ <https://www.ctc.org.uk/news/get-britain-cycling-report-recommends-%E10-head-year-funding-for-cycling>

⁵ <https://s3-eu-west-1.amazonaws.com/manifesto2015/ConservativeManifesto2015.pdf>

A substantial body of research shows that using a hand-held or hands-free phone while driving is a significant distraction, and substantially increases the risk of the driver crashing. Drivers who use a mobile phone, whether hand-held or hands-free, are four times more likely to crash whilst doing so⁶. Texting also significantly impairs driving behaviour (as it leads to variability of lane position)⁷. In 2014, 24 people were killed, 111 seriously injured and 634 slightly injured in road crashes involving drivers using mobile phones.⁸ It is also likely that this is an under-estimate as some drivers will have been able to put their phones away before the police arrived at the crash scene.

A TRL study found that certain aspects of driving performance are impaired more by using a phone than by having a blood alcohol level at the current legal limit⁹. The distraction is thought to be different from that of conversing with someone in the car: people present in the vehicle are immediately aware of sudden hazards, whereas someone remote from the scene is not. In fact, they may not even know that they are talking to someone who is driving. Also, trying to listen to a mobile phone conversation often requires a significant degree of concentration, given the variable quality of transmission.

Using a hands-free phone while driving does not significantly reduce the risks because of the mental distraction and divided attention, caused by taking part in a phone conversation or texting at the same time as driving.

Question 2

Generally, are you in favour of increased sanctions for this offence?

Yes, although increasing the penalties which drivers might theoretically receive if caught using a mobile phone whilst driving will have limited effect if there is no real risk of detection. Tougher penalties can only be imposed if offenders are detected, and the deterrence effect of increased penalties is reduced if drivers perceive that they are unlikely to be seen by a police officer using their phone whilst driving, because there are less traffic officers on the roads.

With a reduction in traffic police officer numbers of 37% from 2002/3 – 2013/14, from almost 7,000 uniformed officers to just 4,356, there is an acute problem concerning the lack of visible roads policing. Increasing penalties needs to be linked with both increased enforcement measures and education concerning the dangers of mobile phone use whilst driving.

Question 3

Do you support an increase in the FPN for this offence?

Yes, CTC supports the use of FPNs for this offence. It is an efficient and cost-effective sanction that enables many more drivers to face legal consequences for their actions, without overwhelming police and court resources.

⁶ <http://content.nejm.org/cgi/content/short/336/7/453>

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http://www.racfoundation.org/assets/rac_foundation/content/downloadables/texting%20whilst%20driving%20-%20trl%20-%20180908%20-%20report.pdf

⁸ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/467465/rrcgb-2014.pdf

⁹ <http://www.trl.co.uk/>

Without FPNs it is likely that the level of enforcement for this offence would substantially decrease due to the resourcing costs and time it would take the police and courts to process drivers who previously would have been issued with a FPN. This would reduce the deterrent against using a mobile phone while driving, as drivers would perceive there was even less likelihood of being caught. More serious cases of poor driving due to the use of a mobile phone, or collisions involving drivers using mobile phones, should however result in a court prosecution.

Question 4

If so, do you agree that we should increase the FPN from £100 to £150 for all drivers (including HGV)? If not, please explain your reasons why.

CTC agrees that the FPN should be increased to £150 for car drivers, but believes there should be a separate higher penalty for HGV drivers. Please see the answer to question 8 below, where CTC have also raised the question of whether a higher penalty should also apply to Public Service Vehicle (PSV) drivers and other professional licensed drivers such as taxi drivers.

Question 5

Do you support an increase in the Penalty Points for this offence?

Yes, CTC agrees with the proposed increase in penalty points, to provide a stronger deterrent.

Question 6

If so, do you agree that we should increase the penalty points for non-HGV drivers from 3 to 4 penalty points? If not, please explain your reasons why.

Yes, CTC supports the proposal to increase the number of penalty points for non-HGV drivers who use a hand-held mobile phone while driving from 3 to 4 penalty points.

Research suggests that penalty points are more of a deterrent than the level of the fine due to the risk of disqualification. A 2008 study¹⁰ found that drivers who had penalty points and were at risk of losing their licence if they were caught again, were 50% less likely to be subsequently convicted than drivers with no penalty points or with only one conviction. The 2013 Think! Annual Survey also found that the introduction of penalty points for hand-held mobile phone use in 2007 resulted in the number of recorded offences dropping significantly¹¹.

CTC believe therefore that an increase in penalty points should act as a stronger and quicker deterrent to drivers, and if they fail to respond, increase the risk of disqualification.

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<http://webarchive.nationalarchives.gov.uk/20090417002224/http://www.dft.gov.uk/pgr/roadsafety/research/rsrr/theme2/threat.pdf>

¹¹ <https://www.gov.uk/government/publications/think-research>

Question 7

Do you support a specific offence for drivers of Large Goods Vehicles (HGVs)?

Yes. Please see answer to question 8.

Question 8

If so, do you agree that a specific offence for Large Goods Vehicle (HGV) drivers who offend whilst driving a HGV should be created which carries 6 penalty points and a £150 FPN? If not, please explain your reasons why.

Yes, CTC agree that a specific offence should be created for HGV drivers which carries 6 penalty points. In relation to the FPN, CTC suggest this should be increased to £200 or £250, rather than £150.

Firstly, as referred to in response to question 10, HGV drivers will have already received training which covers the dangers of distraction, including the use of mobile phones. Secondly, collisions caused by drivers distracted by mobile phones are far more likely to lead to fatal or serious injuries with HGVs, given the size and weight of those vehicles. The penalties for professional drivers responsible for driving HGVs, if they ignore safety related road traffic laws, should be significantly greater than for other car drivers.

Whilst this consultation specifically refers to a separate higher penalty for HGV drivers, CTC suggest that consideration should be given as to whether higher penalties, both in terms of fines and points, should also apply to PSV drivers, and potentially those licensed to drive professionally such as taxi drivers, who are both responsible for the safety of the public on the road, and members of the public in their vehicles.

Question 9

Do you support an increase in both the FPN and Penalty Points for this offence AND a specific penalty for HGV drivers? If not, please explain your reasons why.

Yes, CTC supports the proposal to increase the number of penalty points for HGV drivers who use a mobile phone while driving a HGV, and to impose a specific penalty for HGV drivers. CTC agrees that HGV drivers should be sent a warning letter from the DVLA for their first offence with a mobile phone, and for a second offence (or their first offence if it occurred while driving an HGV rather than a car), be called to a hearing with the Traffic Commissioner, who can suspend or revoke their vocational driving licence.

Question 10

Do you agree that HGV drivers who commit their first mobile phone offence whilst driving a HGV should be offered a remedial training course as opposed to a FPN? If not, please explain your reasons why.

CTC has recently given evidence to the Transport Committee's Inquiry into Road Traffic Law Enforcement¹², raising substantial concerns regarding the lack of evidence to support remedial training courses. In 2014 over 1.35 million drivers attended various remedial courses provided through the National Driver Offender Retraining Scheme as an alternative to prosecution. In 2014 over 120,000 drivers were caught illegally using a mobile phone whilst driving, but only 17,414 were prosecuted¹³ for the offence, down from 32,571 in 2009. The rest were dealt with either by being given a warning or attending a remedial course.

The exponential growth of the remedial training industry has occurred notwithstanding the absence of evidence that such training works in changing driver behaviour and improving road safety.

Research into the effect of retraining courses on re-offending rates of drivers reported for careless driving was carried out by the Transport Research Laboratory (TRL Broughton et al)¹⁴ in 2005. The finding was that such schemes had no detectable impact on re-offending rates, which perhaps not surprisingly accords with the evidence from France that drivers amend their behaviour in fear of prosecution and a zero tolerance approach. By contrast another TRL study (Broughton 2008)¹⁵ showed that drivers close to 12 points on their licence modified their behaviour to avoid losing their licences.

Consequently CTC do not accept that there is evidence to justify the widespread use of remedial courses generally, and further are not aware of any evidence which supports the continuation of the existing policy, where the vast majority of first time mobile phone use offenders are offered the opportunity to attend a remedial course.

Acknowledging that the policy referred to above is, unfortunately, unlikely to be immediately reversed, CTC repeats its previous submissions to the Transport Committee, reflected within the Committee's report published today, that further research is required if remedial courses continue to be offered to offending motorists in such a universal and widespread fashion.

On the specific issue of HGV drivers, however, CTC can see no justification for HGV drivers being offered a remedial course if they are caught using a mobile phone whilst driving. They will have already received 35 hours of educational training as part of their Certificate of Professional Competence (CPC), which will have covered the dangers of distraction, including the use of mobile phones. They should already know the potential consequences. CTC believe that the fixed penalty notice and points would be a stronger deterrent. Quite simply, HGV drivers should know better and will already have been fully informed of the dangers of mobile phone use whilst driving.

Question 11

What role might the mobile phone industry play in improving road safety? For example, promoting new technology with 'drive safe modes'.

CTC welcomes moves to develop technology to discourage drivers from using mobile phones whilst driving, such as a 'drive safe mode'. If such technology relies upon the automatic detection of speed to trigger the drive safe mode, there will have to be a capacity for people to disable or switch off the

¹² https://www.ctc.org.uk/sites/default/files/media_library/users/SamJones/1510_ctc_transcom_con.pdf

¹³ <http://www.itv.com/news/2015-12-19/tougher-penalties-for-drivers-using-phones-while-driving/>

¹⁴ <http://www.trl.co.uk/reports-publications/trl-reports/report/?reportid=5364>

¹⁵ <http://www.trl.co.uk/reports-publications/trl-reports/report/?reportid=6386>

drive safe mode, if for example they are the passenger in a vehicle, travelling on a train etc. Accordingly the drivers who are most likely to use their mobile phones whilst driving are also those most likely either to switch off the drive safe mode, or decline to activate it.

Despite the limitations outlined above, CTC do however believe that drive safe mode technology could be beneficial in potentially reducing the risks from those using mobile phones whilst driving for work purposes. As mentioned further in response to questions 12 and 13 below, lower car insurance premiums for employers of people driving for work purposes, who impose a requirement within employment contracts for their employees to either switch on not disable the drive safe mode on their mobile phones when driving for work, is a potential incentive / route to encourage the use of drive safe technology, and discourage mobile phone use whilst driving.

Question 12

What role might the insurance industry play in improving road safety? For example, promoting new technology with 'drive safe modes'.

The insurance industry is uniquely placed not just to discourage mobile phone use by drivers, but also discourage built-in communication systems that enable and encourage drivers to make and receive calls and texts, surf the internet and use social media whilst driving. The fact that these systems are hands-free does not significantly reduce the distraction risk associated with their use. Research by TRL¹⁶ found that the degree of driver impairment was no different when using hands-free rather than hand-held mobile phones whilst driving, as the impairment is largely due to the mental distraction rather than the physical distraction of dialling the numbers or handling the phone itself.

CTC suggest that the insurance industry should be encouraged to include questions on motor insurance application forms as to whether:

1. Drivers will activate or not disable drive safe modes on mobile phones whilst driving (dependent on the advancement of this technology);
2. A hands-free mobile phone will be used within any vehicle driven by the insured person;
3. Built-in communication systems as described above are fitted / will be used in any vehicle driven by the insured.

Asking those questions would enable insurers to discount insurance premiums for those drivers who agreed not just to disable any hand-held mobile phones, but also not use hands-free phones or other built in communication systems.

As referred to in response to question 11, there are particular opportunities for the insurance industry to apply such discounts for business / commercial fleet insurance policies, where employees' contracts of employment impose restrictions on hand-held mobile phone drive safe modes, and both hands-free and communication system use.

¹⁶ http://www.trl.co.uk/umbraco/custom/report_files/TRL547.pdf

Question 13

Do you think it would be beneficial to target new technologies at certain groups of drivers? For example, young drivers, van drivers or those driving for work.

As already mentioned in response to question 11 and 12, there is scope to target new drive safe technology at those driving for work purposes, with employers having the incentive of reduced insurance premiums consequent upon employment terms / contracts regarding drive safe or other mobile phone technology.

Question 14

What else would you recommend should be done regarding mobile phone offences whilst driving?

As outlined in response to question 2, consistent enforcement is essential. Drivers who do not fear detection are less likely to change their behaviour. Increasing the penalties for mobile phone use whilst driving needs to be supported by effective and visible enforcement by the police.

Efforts also need to be made to make using a mobile phone whilst driving socially unacceptable. In addition to increasing the penalties, and strengthening enforcement, further education potentially through the DfT's Think! Campaigns, and certainly within learner driver training, is important to support other changes.

Whilst using hands-free mobile phones and other in-car communication systems whilst driving are outside the remit of this particular consultation, as outlined in response to questions 2 and 12, there is no evidence to suggest that 'hands-free' is and safer than 'hand-held' for mobile phones in vehicles. An urgent review of the dangers associated with hands-free mobile phone use and other communication systems, and how they can be addressed, is required for the reasons already set out.

Question 15

Please provide your contact details, the most frequent mode of transport you use, and whether you are responding as an individual or on behalf of an organisation.

This response is from CTC, the national cycling charity. CTC represents the interests of cyclists, and most of our members are people who ride bicycles, however 80% of them are also car drivers.

CTC, the national cycling charity, 15 March 2016

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