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Valero Energy Ltd – Submission to Sustainable Aviation Fuel (SAF) Bill: House of Commons Public Bill Committee Call for Evidence

Introduction

1. Valero Energy Ltd welcomes the opportunity to submit evidence as part of the House of Commons Public Bill Committee Call for Evidence regarding the Sustainable Aviation Fuel (SAF) Bill.

2. Our concerns regarding the Bill in its current form arise from the Department for Transport's (DfT) fundamentally unworkable approach to determining the Revenue Certainty Mechanism (RCM) levy obligations based on historic recorded market share, a lack of understanding by DfT as to how these levy costs will be passed fully through to the consumer, and a misplaced confidence in the ability of the RCM to lower the costs of SAF across the value chain.

3. **Instead, Valero urgently suggests that the Bill Committee consider an amendment to Clause 6, subsection 3, of the current Bill to enable any levy put in place to finance the RCM is set at a standardised rate payable by all suppliers of aviation fuel, that is able to be publicised by suppliers of aviation fuel on invoices to their customers.**

4. Nevertheless, even addressing this aspect of the Bill would leave considerable further challenges. In their response to the 'SAF revenue certainty mechanism – approach to industry funding consultation', DfT do commit to conducting a full subsidy control assessment to ensure domestic and international compliance. Nonetheless, we believe the RCM will create considerable trade law challenges at both a World Trade Organisation (WTO) and EU level that DfT have not addressed.

5. We are also concerned that the RCM levy obligated on fuel suppliers does not cohere to the 'polluter pays' principle, which is fundamentally ill-advised and unfair. There are also specific challenges and risks that these proposals would create for the UK aviation fuel sector and the long-term development of SAF in the UK, particularly because the current hydroprocessed esters and fatty acids (HEFA) cap will hinder the growth of the UK's still-nascent domestic SAF market.

6. Valero[1] is the world's largest independent refiner, employing over 10,000 people globally. In the UK, Valero markets fuel under the Valero and Texaco brands, with around 750 branded service stations in the UK. The company owns and operates Pembroke Refinery in West Wales, which is one of Europe's largest and most complex refineries, and has ownership interests in four major pipelines, nine fuel terminals and a large aviation fuels business.

7. Total throughput capacity at Pembroke Refinery stands at 270,000 bpd, producing approximately 13.6 million litres of petrol and 8.3 million litres of diesel per day, in addition to 16 other different products, making Pembroke one of the largest fuel manufacturers in North West Europe, and responsible for 15% of Welsh export GDP.

[1] "Valero" refers to Valero Energy Corporation and all of its direct and indirect subsidiaries, including Valero Energy Ltd.

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8. Supporting over 1,000 skilled jobs, Pembroke Refinery is one of West Wales' largest employers, as well as being at the heart of Pembrokeshire's energy sector, contributing approximately £75 million per year to the local economy.

'Polluter Pays' Principle

9. In general terms, Valero strongly disagrees with the contention that the RCM levy should be applied to aviation fuel suppliers based on the 'polluter pays' principle.[2] In our view, DfT has failed to convincingly demonstrate why the fuel supply sector should be the ultimate polluter when it comes to the use of SAF. The argument that aviation fuel suppliers are already set up for reporting requirements under the SAF Mandate could equally apply to the fact that the aviation industry is already included as the sole transport segment within the scope of the UK Emissions Trading Scheme (UK ETS). This would also reflect that airlines are ultimately the emitter of the finished product. A real world example would also be road fuel duty, where the cost is borne by the fuel sector but transparently passed through the supply chain to the final consumer.

10. The policy refers to placing the obligation for the RCM levy higher up the supply chain so that airlines, passengers and air freight customers can all be captured (and therefore the costs more widely spread). This policy is misplaced, since passengers and airlines are effectively one single group, and air freight carrier businesses also use and purchase aviation fuel in the same way. Therefore, there is no rational reason not to place the RCM obligation at the airline/air freight end of the value chain, making the cost explicit for each litre of fuel that airlines and air freight customers purchase. The inclusion of airlines in UK ETS makes the collection of consumption data and the subsequent levying of costs relatively simple.

11. Bearing in mind the ultimate intended use of the SAF produced via the RCM, it would be considerably more appropriate for any levy to fund the RCM to be applied to airlines, which could be applied transparently to ticket prices as other levies to address the environmental impacts of air travel, such as Air Passenger Duty (APD).

12. It is abundantly clear, however, that by putting the burden of a levy on fuel suppliers, DfT intends to disguise the cost impacts of the RCM by placing it as far up the supply chain away from the consumer, in the vain hope that these costs will not be passed through.[3] In spite of these efforts, RCM levy costs will, nonetheless, either be passed through fully or other unintended consequences will affect UK airline passengers. It is also evident that this approach would replicate the contract for difference (CfD) scheme for renewable energy and the proposed Gas Supplier Obligation (GSO) currently being consulted on by the Department for Energy Security and Net Zero (DESNZ). The electricity CfD obligation is expressly passed through to the final consumer and the recent GSO consultation explicitly states that DESNZ assume "that 100% of the GSO costs will be passed through by gas shippers to end users of gas (either directly to end users or via suppliers)."[4]

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[2] As set out in DfT, 'SAF revenue certainty mechanism: approach to industry funding', https://www.gov.uk/government/consultations/saf-revenue-certainty-mechanism-approach-to-industry-funding/sustainable-aviation-fuel-revenue-certainty-mechanism-approach-to-industry-funding, 3 March 2024:
"Adhering to the environmental principles, introduced in the Environment Act 2021, ministers and policymakers must where possible follow the polluter pays principle. This sets out that the cost of environmental damage should be borne by those causing it, rather than the person who suffers the effects of the resulting environmental damage, or the wider community."

[3] *Ibid.*, *"[P]lacing the levy higher up the supply chain on aviation fuel suppliers allows costs that are passed on to be distributed across more of the supply chain – this includes airlines, freight companies and passengers."*

[4] DESNZ, 'Funding mechanism for the Hydrogen Production Business Model: Consultation on the proposed Gas Shipper Obligation', https://assets.publishing.service.gov.uk/media/6787cbc3868b2b1923b6467b/proposed-design-gas-shipper-obligation-consultation-document.pdf, January 2025, p.14

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13. More generally, if we follow the 'polluter pays' principle to its logical conclusion, then we should fully expect reduced consumer demand for air travel to be one of the expected outcomes, where passengers and freight customers seek lower cost and lower emissions travel alternatives, in spite of the increased adoption of SAF. This approach is in direct conflict with the UK Government's emphasis on expanded aviation infrastructure to support economic growth, not least the Chancellor's announcement of support for a third runway at Heathrow, underpinned by the rationale for greater SAF adoption following the introduction of the SAF Mandate.[5]

RCM Fundamental Flaws

14. It is Valero's continued belief that an RCM is not only unfairly placed in the wrong part of the supply chain, but would also be a deeply flawed policy and that the UK Government should desist in its application. We believe this policy introduces a central tension into DfT's overall objectives for SAF. The principal aim of introducing SAF into the aviation fuel mix is to support emissions reductions, underpinned by the recently implemented SAF Mandate and aviation's inclusion in UK ETS. Aviation fuel is a globally traded commodity, with international supply chains and synergies across and between multiple companies in multiple jurisdictions. Enabling the free trade of such products, with minimal barriers to doing so, must be at the centre of the UK's efforts to achieve aviation emissions reduction. This is fundamentally different to electricity production through the original Renewable Obligation (RO) and CfD schemes, as the trade in electricity is limited by physical infrastructure (i.e. interconnectors) and the instantaneous supply and demand balances of electrical systems. DfT should recognise these fundamental commodity differences prior to copying over a model from the domestic electricity market to a totally different international market.

15. DfT, however, lists domestic economic growth as one of reasons to introduce the RCM, alongside security of supply and demonstrating UK leadership on climate change.[6] Whilst these may be worthy ambitions, the proposal to achieve these outcomes through an RCM could significantly inhibit the overall aim of reducing emissions and enabling the development of and access to SAF within the UK.

16. Indeed, an RCM aimed at developing start-up producers to help meet an arbitrary target of SAF production plants – who have already received significant CAPEX support through the Advanced Fuels Fund (AFF),[7] the Green Fuels, Green Skies (GFGS) competition,[8] the Future Fuels for Flight and Freight Competition (F4C)[9] and the Advanced Biofuels Demonstration Competition (ABDC)[10] – risks misallocating public funds to nascent technologies and companies that would otherwise likely fail under regular market conditions. This not only keeps certain technologies artificially in place, but warps the development of natural competition and ultimately is a detriment to the UK consumer. Valero would strongly recommend DfT reviews the significant taxpayer funding already to biofuels plants in the UK,

[5] Rt Hon Rachel Reeves MP, Speech: Chancellor vows to go further and faster to kickstart economic growth', https://www.gov.uk/government/speeches/chancellor-vows-to-go-further-and-faster-to-kickstart-economic-growth, 29 January 2025
[6] Department for Transport, 'Sustainable Aviation Fuels Revenue Certainty Mechanism: Revenue certainty to support a sustainable aviation fuel industry in the UK', https://assets.publishing.service.gov.uk/media/664f41d5ae748c43d379414d/sustainable-aviation-fuels-revenue-certainty-mechanism.pdf, 25 April 2024, p.14
[7] Department for Transport, 'Transparency Data: Advanced Fuels Fund (AFF) competition winners', https://www.gov.uk/government/publications/advanced-fuels-fund-competition-winners/advanced-fuels-fund-aff-competition-winners, last updated 9 January 2024
[8] Department for Transport, 'Transparency Data: Green Fuels, Green Skies competition: winners', https://www.gov.uk/government/publications/green-fuels-green-skies-gfgs-competition/green-fuels-green-skies-gfgs-competition-winners, last updated 6 December 2021
[9] Department for Transport, 'Future Fuels for Flight and Freight Competition feasibility study', https://www.gov.uk/government/publications/future-fuels-for-flight-and-freight-competition-feasibility-study, 28 August 2017
[10] Department for Transport, 'Advanced Biofuels Demonstration Competition feasibility study', https://www.gov.uk/government/publications/advanced-biofuels-demonstration-competition-feasibility-study, 10 December 2014

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such as those above, and publish their findings as to whether these proved to be successful investments. Demonstrating a firm understanding of the learnings of these programmes would be beneficial before embarking on the development of a SAF RCM.

17. Valero's own investments in SAF production in the U.S. – a $315 million investment in our Port Arthur, Texas refinery as part of our Diamond Green Diesel joint venture, with half of that cost attributable to Valero[11] that builds on the already major investments made in renewable diesel/HVO in our St Charles, Louisiana and Port Arthur, Texas refineries – have occurred when we have experienced a business environment that supports long-term investment confidence.

18. This does not mean there is no role for government support schemes, including state and federal programmes. Nevertheless, in our experience, such programmes work best in a business environment that incentivises risk taking and innovation. The development of an RCM that provides a fixed return to potential investors with time limited contracts risks leaving investments stranded or uneconomic at the end of the contract duration. Such an outcome will undermine risk taking, inhibiting innovation that could otherwise unlock deep decarbonisation of aviation and exposes airline customers to excessive costs.

The unworkable and impractical nature of a variable market share approach

19. Clause 6(3) of the Sustainable Aviation Fuel Bill states that, '*Levy regulations may require relevant suppliers of aviation fuel to pay different amounts based on criteria relating to their relative market share…*' This suggests that the market share – and therefore exposure to the RCM levy – will be assessed on historic activity. It is unclear over what period this calculation would be based, but any proposed design would create significant challenges and unintended consequences. For example, basing the calculation on prior year activity would create a situation where new market entrants would be exempt from the levy until their second year of operation in the UK market; basing the calculation on multi-year activity would exacerbate this even further. This outcome fails the 'design principles' of solvency, simplicity and fairness. Considering this discrepancy could also incentivise existing market participants to exit and then re-enter under new commercial arrangements, it could also fail to prevent non-compliance with the RCM levy and weaken market stability.

20. Furthermore, basing market share on a predetermined calculation of historic activity would create challenges for companies whose volumes fluctuate in year, possibly with substantial shifts in volumes supplied because of commercial strategy. This would result in some companies that reduce their volumes in year having to pay based upon a higher market share and vice versa. The RCM levy will therefore undermine commercial decision-making, which could artificially enforce fuel suppliers that want or need to lower sales within the market unnecessarily, or indeed prevent companies that want to scale up their activities from doing so.

21. Calculating market share in the way proposed in the Bill also fails to address the impact that large-scale external factors could have on any company's exposure to the RCM levy. With the EU taking a different approach to SAF than the UK, providing additional EU ETS credits to compensate purchasers of SAF with scaled incentives to promote the use of expensive fuel types, it is entirely feasible and likely that we will see swings in volume occurring between the UK and EU aviation hubs.

[11] Valero, Investor Presentation, https://s23.q4cdn.com/587626645/files/doc_presentations/2024/May/01/investor-presentation-may-2024.pdf, p.10, May 2024

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22. Also, as seen during the COVID-19 pandemic, major supply/demand shocks can have a significant impact on aviation fuel markets. It is entirely feasible if such a scenario were to be repeated that aviation fuel suppliers would be expected to pay an RCM levy that is exorbitantly larger than its actual market share, with the potential to recoup these costs in future years irrelevant if such an event leads to bankruptcy or other market-exiting decisions. It is also entirely unclear what the impact on the RCM – and other obligated suppliers – would be, if any suppliers were to become insolvent or leave the market in any circumstances.

23. Therefore, to ensure that the RCM is also *technically* feasible, an explicit pence per litre levy should be created, rather than a variable market share calculation. This would ensure the system is wholly transparent, by implementing a similar approach taken with fuel duty in the UK, or also in Ireland to finance the National Oil Reserves Agency (the 'NORA Levy') without a revenue certainty mechanism.

24. As currently drafted, Clause 6, subsection 3 of the Bill would enable the levy to apply to aviation fuel suppliers by paying "different amounts based on criteria relating to their relative market share (and may include provision about how their market share is to be determined for these purposes)."[12] To address these fundamental flaws in the draft Bill, Valero therefore would strongly urge the Bill Committee to consider the following amendment, which would at least address the unworkable and nature of the Bill as currently drafted:

    DRAFT CLAUSE

    "Levy on suppliers

    Clause 6, page 4, line 19, leave out subsection (3) and 6(6)(a) and insert—

    "(3) For the purpose of meeting expenses properly incurred, or likely to be so incurred, by the designated counterparty in performing functions under this Act, relevant suppliers of aviation fuel shall, in accordance with the regulations under section 6(1), pay to the designated counterparty in each month a standardised levy on their relevant disposals of aviation fuel products in the preceding month that must be publicised on invoices expressed in pence per standard litre.

    Member's explanatory statement

    This new clause requires the Secretary of State to set a standardised levy rate payable by all suppliers of aviation fuel, that must be publicised by suppliers of aviation fuel on invoices to their customers.

Remove the UK HEFA cap to create policy certainty and a competitive UK business environment

25. Rather than attempting to create *revenue* certainty, DfT should be looking to instil *policy* certainty around the production of SAF. Instead, however, UK SAF policy is currently affected by considerable uncertainty. Perhaps of most concern is that the development of an RCM is occurring whilst the initial effects of the

[12] Sustainable Aviation Fuel Bill, https://publications.parliament.uk/pa/bills/cbill/59-01/0240/240240.pdf, p.4

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SAF Mandate itself are still being assessed on the wider aviation fuel sector, which is intended to create demand in the absence of existing consumer demand today.

26. The belief that there needs to be an RCM at all has been generated by overemphasising the voices of those with untested and cost-intensive technology pathways, with an interest in capturing subsidy support for SAF production business plans that can otherwise not be invested in. Revenue certainty support has certainly not been required in order to achieve road transport fuel decarbonisation, as evidenced by the success of the Renewable Transport Fuel Obligation (RTFO) scheme. Valero contends that similar confidence should be taken in the SAF Mandate to demonstrate equivalent aviation fuel decarbonisation through policy certainty, without having to resort to an RCM. Indeed, the need for an RCM whatsoever stems from the misguided decision of the UK Government to pursue a **unilateral** approach in regard to capping the amount of HEFA-derived SAF from 2027, with HEFA SAF the world's most cost-effective production route for SAF as demonstrated by the Government's own analysis.[13]

27. Furthermore, the most deep-seated barriers to the creation of a domestic SAF industry in the UK are not *revenue* related but stem from the many competitive challenges of doing business in the UK versus other countries and jurisdictions. High comparative energy costs, labour costs, carbon pricing, complex planning and permitting rules all combine to make the UK an unattractive destination for inward investment, particularly for energy-intensive fuel manufacturing. As noted by Fuels Industry UK, "the operating cost for the UK refinery sector each year is more than one-tenth higher than if it operated at the same scale in Europe and more than four times higher than in the U.S. This is due to the costs of taxation, the UK Emissions Trading Scheme and energy."[14]

Global trade and subsidy control rules

28. Finally, there are substantial potential trade implications resulting from the introduction of an RCM. In particular, by restricting support to SAF produced in the UK, the RCM will create significant challenges in relation to both the UK's obligations as a World Trade Organisation (WTO) member and also commitments made under the EU-UK Windsor Framework and the EU-UK Trade and Cooperation Agreement (TCA). They would also need to take account of the UK's own subsidy control rules, including having taken account of the multiple award provisions within the SAF Mandate and any similar support schemes adopted by other jurisdictions.

29. Valero contends that the RCM violates the non-discrimination requirements of Article III:4 GATT. It would most likely not be possible for the UK Government successfully to invoke an exemption in this regard (for environmental or other purposes). Furthermore, the less favourable treatment of certain non-qualifying imported non-fossil aviation fuels (in this case HEFA) compared to SAF that benefits from the RCM would also amount to discrimination prohibited by Article III:4 GATT if the products are considered "like" for WTO purposes, as they would be considering that both products would fall under a single Combined Nomenclature (CN) code. The conditions for qualification under the RCM would also constitute a technical regulation rendering them subject to the non-discrimination and prior notification requirements of the WTO Agreement on Technical Barriers to Trade.

[13] See 'Table 14: Estimated average (2030 to 2044) non-HEFA SAF prices in 2024 prices, domestic and imports', Department for Transport (DfT), 'The Revenue Certainty Mechanism: Cost Benefit Analysis', https://assets.publishing.service.gov.uk/media/685a6765f05cab1603ade6a1/dft-revenue-certainty-mechanism-cost-benefit-analysis.pdf, May 2025, p.45
[14] Fuels Industry UK, 'Policies for the Fuels Sector', https://online.flippingbook.com/view/558740525/, 7 February 2024

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30. The RCM would likely qualify as a subsidy for the purposes of the WTO Subsidies Agreement. Whilst it would not fall in the category of prohibited subsidies, other WTO member countries could nonetheless take countermeasures or commence WTO dispute settlement should they decide to do so.

31. In addition, careful consideration needs to be given to the UK's obligations under both the EU-UK Windsor Framework State Aid Rules and the EU-UK Trade and Cooperation Agreement (TCA), particularly to ensure that Northern Ireland equally benefits from the impact of this policy as do other parts of the UK. EU State Aid rules continue to apply to subsidies in goods that affect trade between Northern Ireland and the EU. Those rules require, in principle, for State Aid to be notified to and approved by the European Commission prior to implementation – if this process is not followed, the State Aid would be unlawful and could be subject to recovery. The RCM is likely to constitute "State Aid" for these purposes. As the UK Government has confirmed the RCM will also apply to SAF producers in Northern Ireland, the State Aid rules should apply and notification to and approval by the European Commission should be required.