



Submission

- to -

Transport and Industrial Relations Select Committee
Parliament Buildings
Wellington

Road User Charges Bill 2010

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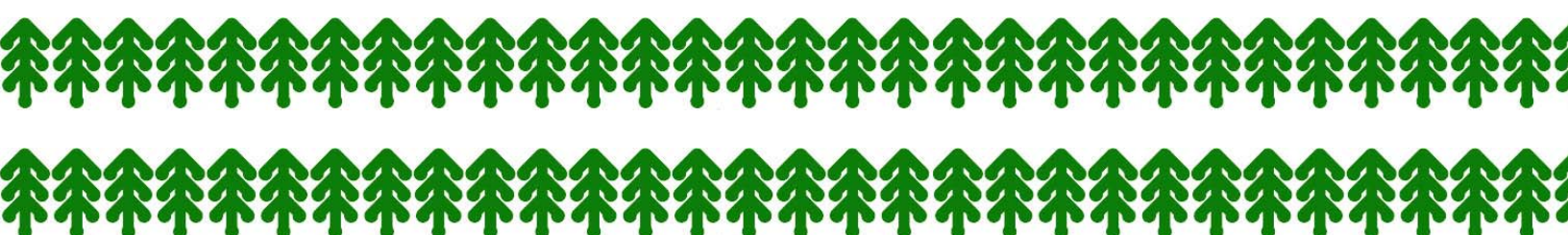


TABLE OF CONTENTS

1. Introduction	3
2. The Cost Allocation Model	4
3. RUC Simplification Proposals	4
4. Clause by Clause Comments on the Bill	5
5. Conclusion	9

1. Introduction

The New Zealand Forest Owners Association (FOA) is an NGO that represents the majority of plantation forest owners in New Zealand. Its members' forests comprise more than 75 per cent of the country's 1.8 million hectares of plantation forestry. The Association adds value to the businesses of its members by undertaking activities which could not be handled easily or efficiently by individual growers working alone. Its credibility also relies on the fact it has the support of the majority of New Zealand's production forest owners.

In the year to March 2010, approximately 23 million tonnes of logs were transported on New Zealand roads. Over the next five years roundwood removals, and hence transport is forecast to increase to around 30 million tonnes.

Apart from freight, the movement of logs, manufactured forest products and wood by-products is the largest road freight commodity group transported in New Zealand.

Forestry is a key primary industry, in most cases located in rural areas heavily dependent upon the road network, with restricted opportunities to utilise rail or coastal shipping. An adequate road infrastructure, supported by an efficient and reasonable system of road use funding, is critical to the competitiveness of this sector. The FOA supports the principle and concept of "user pay". However, FOA notes that road transport costs in NZ are much higher than other developed countries. For example, New Zealand's comparable freight costs are 30% - 35% higher than Australia.

The current Road User Charges (RUC) scheme is an extremely complex, inefficient and wasteful revenue gathering system. It is costly to administer, has high compliance costs by transport operators and is prone to leakage and evasion. The Road Transport Forum estimate \$120 million of deadweight costs are incurred in the gathering of \$881 million of revenue each year (i.e. 13.6%).

FOA have reviewed the Road Transport Forum (RTF) submission and note we are in alignment on the key issues, other than the proposal for a national fuel diesel tax which we do not support.

2. The Cost Allocation Model

While the RUC system is the instrument for revenue measurement and collection, the Cost Allocation Model (CAM) determines the allocation of costs between the various road user categories and local authority ratepayers.

Serious distortions exist within the CAM all of which unfairly load cost onto heavy vehicles.

Contrary to the recommendation of the Independent RUC Review Group the October 1st 2010 RUC increases were imposed without the review of the CAM and now this Road User Charges Bill is being considered while the inefficiencies, distortions and inequities of the CAM, which determines the RUC, remain in place.

3. RUC Simplification Proposals

The proposal to move to a weight distance charging system based on the permitted vehicle mass could potentially reduce administration and compliance costs. In addition with the removal of supplementary RUC licences for standard vehicles, the opportunities for evasion should be greatly reduced.

However, this Bill fails to deliver the potential gains identified in the policy intention. In many instances compliance costs will be greatly increased by the provisions of this Bill. The penalty regimes for compliance on trivial matters are pernicious.

FOA notes that improvements in equity and efficiency under the proposed regime will be very dependent upon the setting of appropriate weight bands through regulation. These must be appropriate and practicable.

These bands will be in the Regulations promulgated after this empowering framework Bill is enacted. The lack of information on the likely weight bands is causing uncertainty for road freight operators, potentially affecting investment decisions because under the new regime there will be a greater incentive to operate the vehicle combination and axle configuration that best fits a particular freight task or combination of tasks. Equally there will be a greater penalty for running vehicles less suited to a particular task or group of tasks.

4. Clause by Clause Comments on the Bill

7.2 Clause 5: Interpretation

7.2.1 *Distance Recorder*

FOA agrees with the Road Transport Forum (RTF) which has grave misgivings with the use of “accuracy” in reference to hubodometers and odometers. We agree with the RTF that there should be reliability or durability specifications for hubodometers.

7.2.3 *Records (line 4, page 10)*

Most of the specified documents in (a) to (g) have no relevance given the simplified RUC provisions of this Bill. The only records that should necessitate access are variables by distance and vehicle mass as defined in terms of RUC weight.

7.2.4 *RUC Information (line 1, page 11 reference to (a))*

FOA agrees with the Road Transport Forum (RTF) that there should be a formal procedure for accessing any electronic RUC records.

7.2.5 *RUC Weight (line 37, page 11)*

The following additional provision is required: (c) “A maximum allowable mass for any individual RUC vehicle or combination of RUC vehicles as determined by the Chief Executive”.

This additional provision would allow the Chief Executive to set a RUC weight determination for specialist vehicles and vehicles that have been modified

7.2.7 *Clause 5(2) (line 21, page 12)*

We agree with the RTF in suggesting the addition of the following phrase “unless approved by the Chief Executive under Clause 34”. This change will provide some flexibility for the Chief Executive to allow a co-joined licence in specific circumstances.

7.4 *Clause 10: Reading of Distance Recorder*

Subclause 10(2) (line 9 page 15) sets a limit of 500km for overrun.

The full RUC is going to be purchased in any event as distance gaps are not permitted, therefore a limit of 1,000 km would be more appropriate and practicable.

7.6 *Clause 12: Certain RUC vehicles must have additional licences (line 23, page 15)*

FOA agrees with the RTF submission on this clause:

Clause 12 proposes in subclause (1) a vehicle or combination operating pursuant to a mass based permit issued by the Chief Executive be subject to subclauses (2) and (3) with the enforcement provisions covered off in subclause (4). However subclause 4 also captures any standard vehicle or combination, operated in excess of the mass limit for its type specified by section 4 of Part 1 of the VDAM Rule 2002. Clause (4) is not limited to a permit vehicle not having the additional RUC licence or registration scheme participation.

The former, in reference to standard mass combinations and vehicles, presents a serious issue in its application to vehicles operated around the threshold mass for their type.

The provisions in *clause 12* set the mass thresholds referred to in the VDAM Rule as absolute for the purposes of this Bill but make no reference to the weighing variations commonly referred to as tolerances set out in the Offences and Penalties Regulations 1999.

Equally no variation or concept of tolerance is provided for judging whether a vehicle or combination has exceeded its RUC licence weight and therefore its RUC liability.

This conundrum is exacerbated by *subsection (3)* which inappropriately amalgamates two separate concepts, a vehicle being overweight in terms of mass limits for road preservation imperatives and a vehicle being overweight in terms of its RUC liability.

NZTA's own RUC purchase analysis has shown combination vehicles operating at the limit for type tend to overbuy their RUCs solely to avoid the burden of a RUC audit where their vehicle combination may be subjected to vehicle weighing for road preservation purposes. In these instances tolerances are utilised for determining whether an overweight penalty is payable.

The framework for applicable RUC charges to vehicle types is outlined in the cabinet paper titled "Road User Charges: Charges of Definition to Licence Weight" page 12/14. [4] These conceptual RUC models are supported by *Clause 11*. FOA supports an option for the Chief Executive to provide a co-joined licence in specific circumstances.

This concept should be carried into the present Bill. A RUC audit requiring a RUC recovery payment would only commence if the actual vehicles combination mass limits exceed the VDAM mass limits for type by 10% or more. The 10% value correlates with the off loading limit used by police under *section 126* of the Land Transport Act 1998.

This approach would ease considerably the impact of much of this Bill particularly the antagonism and costs associated with RUC audits and the accompanying recovery processes.

7.7 Clause 13: Offences Relating to Distance Recorders (line 20, page 6)

Subclause 13(1)(a) must make provision for the truck to be taken to a place of repair. A driver could discover that a hubodometer has been damaged, and provision must be made to allow the vehicle to be taken to a place where the damage may be remedied. Currently if that vehicle is moved a fine of \$75,000 may be incurred.

7.8 Clause 15: Application for RUC Licence (line 13, page 18)

Subclause 15(3) could result in an administrative error, such as the transposing of a number, triggering a fine of \$75,000. The penalty is out of keeping with the magnitude of the offence.

7.10 Clause 19: Display of RUC Licence (line 15, page 19)

FOA agree with the position stated by the RTF.

Subclause (3), relating to display of licences, includes penalties that are out of keeping with the magnitude of the offence. Failure to display a licence should not incur a similar penalty as failure to pay for a licence.

The non display of TSL labels incurs a \$400 infringement fee for the driver and \$2,000 for any person under summary proceedings. The penalty for not displaying a RUC licence should be of similar order.

7.13 Clause 22: Current distance licence to be provided to purchaser on sale of RUC vehicle (line 7, page 20)

This new provision carries penalties that are out of proportion with the offence.

7.15 Clause 24: Offence of displaying anything on RUC vehicle likely to be mistaken for RUC licence (line 13, page 21)

This Clause should only apply to the displaying of a document designed to be mistaken for a RUC licence. ie: there is obvious intent to defraud.

7.16 Clause 25: Offence of operating RUC vehicle on road with RUC licence obscured (line 24, page 21)

The levels of penalty for committing this offence are out of keeping with the magnitude of the offence.

7.20 Subclause 36(2) (line 37 page 27) refers in two places to 2 years as the expiry time limit for the RUC collection to provide refunds. This contrasts with the requirements under *Clause 48(5)* that allow the RUC collector to recover unpaid road user charges for any period of up to 6-years from the date specified in an assessment. 2-years should apply under both circumstances.

7.22 Clause 40: Disclosure and management of RUC information by electronic system provider (line 24, page 30)

There are many unanswered questions concerning the ownership and disclosure of electronic RUC information. It is important that clear coordinated rules are established concerning the ownership, management and disclosure of all electronic data collected under the provisions of this Bill.

Schedule 1 should form part of the Code of Practice and the road freight sector should be involved with the establishment of the Code of Practice.

7.26 Clause 57: RUC collector may take information from engine management system (line 32, page 40)

In *subclause 57(b)* (line 4, page 41) reference is made to accessing information from the vehicle engine management systems. 57(b) should state: "take information from the engine management system **only** relating to the distance travelled by the RUC vehicle."

Only the total distance travelled is required for the purposes of this Bill. Other information recorded by the vehicle management system serves no meaningful purpose in respect of this Bill.

There is a lack of protocols around electronic information gathering and the management of the data.

7.28 Clause 59: Certain persons must make and maintain records

(line 16, page 41)

Subclause 59(1) provides that only TSL holders are required to keep records for 7 years. Records relating to the RUC Bill should only be required to be kept for 2 years.

The revision of the RUC regime was about reducing compliance and administration costs, not expanding them.

Subclause 59(2)(b)(i) is an additional provision requiring logbooks to be retained for 3 years. The present requirement in the Land Transport Act 1998 under 30ZD(2)(a) and 30ZH(b) are a requirement to keep logbooks for 12 months. The hubodometer recordings shown in logbooks are not a proxy for vehicle travel distance and have no direct relationship to RUC compliance.

The requirement imposes unnecessary storage and custody responsibilities.

Subclause 59(2)(ii) line 28 sets requirement for all other records to be kept for 7 years. The requirement imposes unnecessary storage and custody responsibilities.

Subclause 59(4) is reaffirming logbooks be kept for 3 years
The requirement imposes unnecessary storage and custody responsibilities.

7.29 Subclause 59(6) (line 7, page 42)

Proposes excessive fines for not meeting the specified record keeping requirements. FOA agree with the RTF view these fines should be reduced to \$5,000 and \$25,000 respectively.

7.30 Clause 60: Inspection of records line (14, page 42)

7.31 Clause 61: Access to records held by third parties (line 7, page 43)

7.32 Schedule 1 (3)(1): (line 3, page 60)

These subclauses provide for access to records and again include many records which are unrelated to the requirements of this Bill.

In *subclause 60 (2)* the RUC collector is allowed to take records as opposed to making copies. These records maybe required for the ongoing continuation of business. This clause needs to be reframed to allow the RUC collector to copy records and make certifiable copies if required but not remove.

The Bill should make provision for the accessing or core data that is imperative to distance validation and vehicle type compliance. All other business records are irrelevant and not the business of the RUC collector.

The RUC collector should only be empowered to collect information relating to the collection of RUCs. The powers to request **any** specified traffic or transport information is unnecessary.

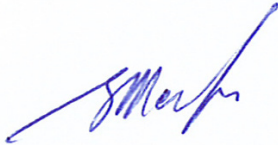
5. Conclusion

FOA welcomed the stated intention of this Bill to simplify the RUC regime and reduce administrative and compliance costs.

Regrettably the Bill as outlined imposes significantly increased demands and compliance costs on operators. Much of this increase in complexity is for information unrelated to the collection of RUC's and is unnecessary. FOA considers that many of the proposed penalties are out of proportion with the offence.

However, FOA notes that with the very narrow range of RUC rates that will result from this Bill, together with a centralised database recording RUC purchases, and with the proposed amendments, there is opportunity for a much more streamlined and fair road funding regime.

FOA would like the opportunity to be heard by the Committee.



Glen Mackie
for David Rhodes
Chief Executive