

Submission to: National Transport Commission

Title: Heavy vehicle charges—options for improving the accuracy and stability of the PAYGO heavy vehicle charges methodology

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1. About the Australian Trucking Association

The ATA is the peak body that represents the trucking industry. Its members include state and sector-based trucking associations, some of the nation's largest transport companies, and businesses with leading expertise in truck technology.

2. Recommendations

Recommendation 1

Governments should reconsider their objections to the direct implementation option and immediately cut the road user charge and registration charges.

Recommendation 2

If recommendation 1 is not adopted, the NTC should investigate moving the cost base forward to include one year of forecast and one year of estimated expenditure. As part of its investigation, the weights in the EMA should be reviewed.

Recommendation 3

Governments should establish independent road funds and hypothecate road-related revenue to them. Ring fencing heavy vehicle revenue should only be adopted as a step toward the establishment of more general road funds, or if it is necessary to support the other recommendations in this submission.

Recommendation 4

The NTC should investigate including an unders and overs mechanism in PAYGO to address:

- forecasting errors resulting from the use of estimated and forecast expenditure figures
- smoothing the trajectory of the road user or registration charges.

Recommendation 5

The NTC should be designated as the independent pricing regulator for heavy vehicle charges. Its decisions should be enforceable and subject to merits review by the Australian Competition Tribunal.

Recommendation 6

As part of the reforms to heavy vehicle charging, the requirement for heavy vehicles to have registration labels should be removed.

Heavy vehicle operators should be able to pay registration charges on a monthly basis by direct debit. Operators should be able to opt in to receive reminders by SMS/email about registration payments that are due.

Recommendation 7

Any reforms to PAYGO should include regular audits of state expenditure data.

Recommendation 8

The NTC expenditure reporting template should be revised so expenditure reported in the template can be matched against the four year expenditure and investment plans for key freight routes released by the Transport and Infrastructure Council.

Recommendation 9

Heavy vehicle charging determinations should be developed on a five year cycle, with the next determination to come into force in 2019.

Recommendation 10

The NTC should be able to determine a smoothed path for heavy vehicle charges throughout each determination period. The COAG pricing principles should be revised if necessary to accommodate this approach.

3. Introduction and summary

Truck and bus operators pay for their use of the road system through a fuel-based road user charge, administered as a reduction in their fuel tax credits, and very high registration charges.

The National Transport Commission (NTC) found in 2014 that this system overcharged truck and bus operators, because it consistently underestimated the number of heavy vehicles on the road.

The NTC recommended a number of technical amendments to the system, which governments accepted, and later put forward three options for dealing with the overcharging from 2016-17. Of these, the ATA urged governments to adopt what the NTC described as 'direct implementation' – an immediate cut to the road user charge and registration charges to eliminate the over-recovery.

Instead, governments chose to freeze revenue from heavy vehicle charges, and decided that the NTC should 'explore options to advance the methodology to better balance heavy vehicle charges and government revenues.'

The resulting NTC discussion paper looks at nine options for changing the PAYGO methodology.

The trucking industry's preferred option is not in the discussion paper. We believe that governments should accept that cost reflective charges can go down as well as up, reconsider their objections to the direct implementation option and immediately cut the road user charge and registration charges (recommendation 1).

This is because the ATA and its members are of the view that the only acceptable way to better balance heavy vehicle charges and government revenues is to restrict that revenue to that generated from charges set to genuinely reflect the assessed impact of heavy vehicles on the roads and not to adjust charges upwards as a means of maintaining revenue. Anything beyond this would alter the charges regime from an appropriate cost-recovery mechanism to a general taxation regime.

If governments do not accept this recommendation, the ATA considers that the only acceptable alternative would be to adopt a narrow version of NTC option 2. The NTC should investigate moving the PAYGO cost base forward to include one year of forecast and one year of estimated expenditure. As part of its investigation, the weights in the EMA should be reviewed (recommendation 2).

Modelling commissioned by the ATA shows that this approach should address the revenue concerns of governments while still providing fair results for the industry. To ensure that the inclusion of forecast and estimated expenditure in the model does not result in over or under-recovery, however, the submission recommends the PAYGO model should be altered to include an unders and overs account (recommendation 4). It also recommends stronger transparency and accountability mechanisms (recommendations 7 and 8).

The submission recommends that the NTC should be designated, for the present, as the independent pricing regulator for heavy vehicle charges, with decisions appealable to the Australian Competition Tribunal (recommendation 5).

The problem definition section of the NTC discussion paper does not examine the cashflow and compliance issues associated with high yearly registration charges and the continued use of outdated and unnecessary registration labels. The submission urges governments to follow Western Australia's lead and eliminate registration labels for trucks, as well as allowing businesses to pay their registration charges monthly via direct debit (recommendation 6).

The submission also urges governments to address the unpredictability and instability of registration charges under PAYGO by empowering the NTC to determine a smoothed path for charges during each, fixed, determination period (recommendations 9 and 10).

4. The trucking industry's preferred option

The 2014 heavy vehicle charges determination was developed through an effective and transparent co-design process with the trucking industry and other stakeholders.

The review process generated a number of important technical improvements to PAYGO, including:

- An improved usage dataset, including the use of current vehicle numbers
- A shift to using a 7 year exponential moving average of nominal expenditure to calculate the cost base, in place of the previous averaging methodology
- Updated ESA values
- Axle group charging
- The inclusion of a regulatory charge to fund the NHVR
- A dynamic annual adjustment formula.¹

As a result of these improvements, the NTC ultimately put forward three options for dealing with the overcharging under PAYGO. Of these, the ATA urged governments to adopt what the NTC described as 'direct implementation' – an immediate cut to the road user charge and registration charges to eliminate the over-recovery.

Governments instead decided to freeze revenue from heavy vehicle charges, and further decided that the NTC should 'explore options to advance the methodology to better balance heavy vehicle charges and government revenues.'²

In this review, the trucking industry's preferred option is that governments should reconsider their objections to the direct implementation option and immediately cut the road user charge and registration charges. The charges system must be an appropriate cost-recovery mechanism, not a general taxation regime.

The other recommendations in this submission should be viewed in this light.

Recommendation 1

Governments should reconsider their objections to the direct implementation option and immediately cut the road user charge and registration charges.

5. Problem definition

The discussion paper argues that the current PAYGO system has five inherent limitations:

- Volatility in the cost base and heavy vehicle charges and, concurrently, persistent mismatches in any given year between actual revenue and the cost base
- Revenue uncertainty for governments and no direct link between expenditure and revenue
- Lack of predictability and stability
- Lack of transparency
- The charge setting process.³

These are all important issues.

The ATA has additional, industry-focused concerns about the current mismatch between actual revenue and the cost base, and the lack of predictability and stability.

¹ NTC, [2014 Heavy vehicle charges determination regulatory impact statement](#), xvii-xviii.

² Transport and Infrastructure Council, [Communique](#), November 2015, 1.

³ NTC, [Heavy vehicle charges—options for improving the accuracy and stability of the PAYGO heavy vehicle charges methodology](#), June 2016, 15-16.

This submission also identifies a further problem with the charging system: its implications for cashflow and compliance costs.

The mismatch between actual revenue and the cost base

Figure 6 in the discussion paper confirms that heavy vehicle related revenue has exceeded expenditure since the 2012 annual adjustment.⁴

The November 2015 decision by governments to freeze the revenue from the road user charge and heavy vehicle registration charges at 2015-16 levels for two years has continued the overcharging.

Based on NTC figures, the governments’ decision will overcharge truck and bus operators \$250.2 million in 2016-17 and \$264.8 million in 2017-18 – \$515.0 million in all. Table 1 summarises how these figures are calculated:

Table 1: Breakdown of overcharging, 2016-17 and 2017-18

	2016-17	2017-18	Total
Registration charges	201.2	212.8	414.0
Road user charge	49.0	52.1	101.1
Total	250.2	264.8	515.0

Source: NTC. Figures may not add to totals due to rounding.

There is a persistent myth that the overcharging is not a major problem because heavy vehicle charges are a relatively small proportion of operating costs.⁵

The NTC has previously recognised, however, that any change in the quantum or structure of charges for operators on tight margins could affect their competitive position and have serious cash flow implications.⁶

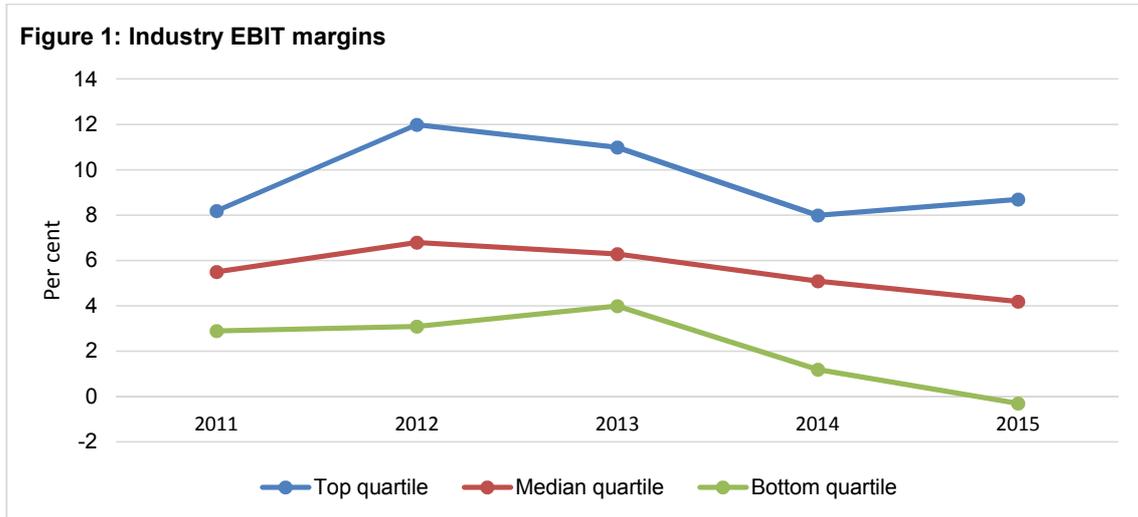
And the trucking industry is characterised by tight margins. Recent research by ANZ shows that the median EBIT margin for trucking businesses was 4.2 per cent in 2015. The bottom quartile of trucking businesses recorded negative, unsustainable EBIT margins (figure 1).⁷

⁴ NTC, 2016, 12.

⁵ NTC, 2016, 25.

⁶ NTC, 2014, 80.

⁷ Suffield T. “Road transport performance from a bank’s perspective.” Presentation at Trucking Australia 2016, 24 June 2016.



The vulnerability of these trucking businesses is worsened by the lack of predictability and stability in the charges, as well as the lumpy cashflow impact of registration charges.

Lack and predictability and stability

Trucking businesses need heavy vehicle charges to remain stable from year to year, or at least to change at a relatively stable rate.

The discussion paper argues that industry participants may be able to renegotiate contracts to pass on at least some of any cost increases arising from changes in heavy vehicle charges.⁸

But the ability of trucking companies to pass on changes in their costs depends on their size and industry sector.

Many larger trucking businesses have fuel surcharges. These surcharges enable them to pass on adjustments to the road user charge, particularly when those adjustments are notified well in advance.

Even large trucking businesses find it hard to pass on increases in registration charges, however. It is rare for long term contracts to include clauses that allow freight rates to be adjusted to reflect changes in input costs other than the cost of fuel. Those contracts that do allow adjustments often base the adjustments on the all groups or transport group CPI rather than a more relevant index.

The vast majority of trucking businesses are small businesses. They tend to be price takers and often have to accept the contract or spot terms they are offered. When their contracts allow for price adjustments *at all*, the contracts tend to have floors and ceilings so they cannot change prices until several months after their costs change.

PAYGO has not delivered the predictability and stability that businesses operating in this sort of commercial environment need, as table 2 shows.

⁸ NTC, 2016, 25.

PAYGO heavy vehicle charges methodology

Table 2: Recent high registration increases by configuration

Vehicle configuration	Adjustment date	% change actual
B-double 9 axle	Sept qtr 2010	+25.5
B-double 9 axle	Sept qtr 2012	-8.3
Road trains double, triple	Sept qtr 2012	+21.0
2 axle rigid truck	Sept qtr 2012	+29.0
2 axle rigid truck	July 2016	+11.0
6 axle semitrailer	Sept qtr 2012	+11.3
3 axle truck, 3 axle dog	July 2016	+32.0
3 axle truck, 4 axle dog	July 2016	+30.7
Rigid truck 8 x 4	July 2016	+11.4

Source: NTC annual registration notifications

Cashflow and compliance costs

The impact of the charging system on operators is exacerbated by the payment cycle for registration charges, which are typically imposed as a single lump sum each year. Operators in some states can register their vehicles quarterly to smooth out their cashflow, but the registration label requirements for heavy vehicles make this option highly resource intensive.

As one Tasmanian operator explained:

Given the costs of registration; we tackle the need for registration labels by visiting Service Tasmania, for each unit, on a just in time basis (ie not undertaken some two or three weeks in advance in the hope of getting the sticker to the unit in time to avoid a potential lapse in registration).

Every re-registration requires us to visit Service Tas – we have some 300 odd pieces of equipment, of which around 70 are managed on a three monthly basis (all trailers, rigids, forklifts and light vehicles are managed annually). Each visit costs us 30 minutes in downtime.

Once the sticker is received, it is overnighted to the depot responsible for the piece of equipment and then either a branch or team manager needs to track this down and apply it (or get a driver to apply it) – this equates to a minimum of 20 minutes per piece of equipment and often the gear is working somewhere else in the state and therefore the risk of registration lapse is very real as is the chance of us being pulled up and fined during the lapse period

If we want to change a prime mover from HC to MC (or return) then the same process detailed above must be followed through and this restricts the flexibility we need to manage or fleet and various tasks, especially if we are responding to a breakdown or an urgent client request. For obvious reasons, we are not going to register all prime movers for MC. This equates to a minimum 24 hour delay before we can change the prime mover's tasking.

6. Assessment of NTC options

The discussion paper sets out nine potential options for addressing the current limitations with the PAYGO system. This submission considers five options in detail. Of the remainder:

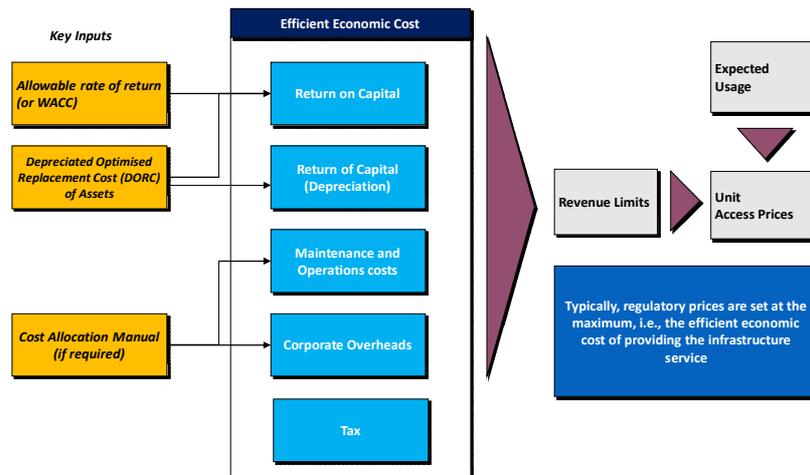
- **Option 5** (turning heavy vehicle charges into a tax) would be inconsistent with broader government policy, given the Australian Government's plan to work through COAG to develop steps to transition to independent heavy vehicle price regulation by 2017-18.⁹

⁹ Fletcher, P. (Minister for Major Projects, Territories and Local Government), *The Australian Government's response to the Harper Review's recommendations on road pricing*, 2 December 2015. 3.

- **Option 6** (continue freezing revenues) would be appropriate as an interim measure but is not a long term solution. It must not continue beyond the two year period decided by governments in November 2015.
- **Options 7 and 8** (re-examine the heavy vehicle cost base allocators and the amount of local government expenditure excluded from the PAYGO cost base) would, as the discussion paper points out, involve costly and time consuming research.¹⁰ They could best be considered as research projects to support a possible 2019 determination, given ATA recommendation 9.

NTC option 1: Adopt a life cycle approach using forward looking costs

Figure 2: key features of the building block model



Option 1 proposes the use of the ‘building block’ pricing model that is used in Australia to regulate the prices of monopoly assets such as railways, ports, electricity networks, water pipelines, gas pipelines and airports.

Figure 2 sets out the main components of the building block model. Under this model, the revenue requirements of regulated entities are determined by adding up:

- a regulated return on capital, based on agreed asset valuations and an agreed allowable rate of return, or weighted average cost of capital (WACC)
- a depreciation allowance
- maintenance and operating costs
- corporate overheads
- tax where relevant.

Prices for services are then derived by dividing the annual revenue requirements by an estimate of the demand for the service.

The approach uses efficient costs, with the regulator questioning, and if necessary adjusting, the cost estimates provided by regulated firms. Prices for the customers of regulated entities are typically set for the duration of a multi-year regulatory period, often with a smoothed price path.

¹⁰ NTC, 2016, 28-29.

The discussion paper sets out the possible benefits of applying this approach to road charging.¹¹ There are, however, also considerable difficulties with the approach, including:

How much is the road system worth?

Using the building block model would require a valuation of the road system, including the age of the road assets and their expected lives. This information does not currently exist in a consistent and usable form.

When the Queensland coal lines were regulated, the Queensland Competition Authority (QCA) commissioned GHD to calculate the value of 1,919 kilometres of rail assets. GHD carried out its work using an asset register provided by QR (which proved to be inadequate), as well as:

- line sections
- as built civil working plan and section drawings
- electrical traction power isolation diagrams
- signalling drawings
- communications and signalling cable layout drawings.¹²

The cost of valuing the 874,000 kilometres of roads¹³ in Australia on a similar best practice basis would be prohibitive.

Before option 1 could be progressed, the NTC would therefore need to propose an alternative asset valuation approach, or probably several approaches with the results checked against each other. The simplest approach would be to derive an opening value that produced a similar price to the current price. Alternatively, capex on roads over a given period (say 20 years) could be used to build the asset base, with the result discounted by a heavy vehicle road use factor and an estimate of the value of the assets already funded by heavy vehicle road user and registration charges.

What WACC should be used?

In the building block model, the WACC is used to set the allowable rate of return on the regulated asset base. The selection of the WACC is critical, and has resulted in increasingly arcane and expensive arguments in other regulated sectors.¹⁴ In 2004, the Productivity Commission pointed out that there is no single correct method for determining a rate of return.¹⁵

The NTC has not provided any guidance about how it would propose to select an appropriate WACC for determining prices on the road network.

Forecasting capex and opex over the regulatory period

The building block model also requires reliable forecasts of capex and opex over the regulatory period, typically with an adjustment to the RAB at the end of the period if the capex forecasts are different to the actuals.

Governments have started the process of developing these forecasts for roads with the release of four year expenditure plans for key freight routes,¹⁶ however, these forecasts are indicative and only cover a part of the capex and opex that would need to be included in the pricing model.

¹¹ NTC, 2016, 18.

¹² GHD, *Valuation of Queensland Rail's Below Rail Assets for the Coal Network*. Report prepared for the Queensland Competition Authority, November 2000. 11.

¹³ BITRE, [Australian infrastructure statistics: yearbook 2015](#). Table T1.6. 44-45.

¹⁴ Biggar, D. [Public utility regulation in Australia: Where have we got to? Where should we be going?](#) ACCC/AER working paper no. 4, July 2011, 20.

¹⁵ Productivity Commission, [Review of the gas access regime](#). PC, 2004. 299

¹⁶ See Transport and Infrastructure Council, [Heavy vehicle road reform](#). Website, accessed 26-Jul-16.

Closing the loop on improving efficiency

A key reason for the success of the building block model in other regulated sectors is that the regulator and other stakeholders can question, and if necessary adjust, the proposals lodged by regulated entities.

For example, the Australian Energy Regulator's most recent decision on Ergon Energy, an electricity distributor in Queensland, allows the distributor to recover \$6,295 million from its customers between 2015 and 2020. This was 19.3 per cent lower than the final proposal that Ergon Energy put to the regulator.¹⁷

In another example, the QCA benchmarked Aurizon's expenditure on ballast cleaning (some 30 per cent of its maintenance cost allowance) and found it was significantly higher than expenditure on comparable networks, such as ARTC's Hunter Valley network.

QCA concluded that the need for the ballast cleaning was due to the overloading of coal wagons. As a result, it wrote down the value of Aurizon's track assets by around \$100 million – effectively, a revenue reduction of \$20 million per year.¹⁸

This approach would not be able to be adopted with respect to roads without substantial supply side reform. At present road capex and opex are effectively pass throughs of actual costs and there is no mechanism for reviewing them.

The cost of regulation

The administration of the regulatory process can be expensive for governments, users and regulated entities. These additional costs can only be justified if it can be shown that there would be significant efficiency gains and it is unclear that these will be realised if only heavy vehicle charges are set using the model.

Option 1 in summary

In summary, then, the building block model would be a complex and potentially expensive approach to setting road prices. At this stage there is considerable uncertainty with respect to how the model would be applied to the road sector. Much of the data needed to run the model is not currently available. In addition, the supply side arrangements for achieving the efficiency gains that are undoubtedly achievable under this approach are not currently in place.

For these reasons, the ATA does not support option 1 at this stage: it should only be considered after supply side reform occurs.

NTC option 2: Adopt a forward looking cost base using forecast budgets

One of the recognised issues with PAYGO is that the road expenditure data used to generate the cost base is always two years behind. For example, the charges in the 2014 determination were based on expenditure data for the seven year period ending in 2012-13.¹⁹

NTC option 2 would see the introduction of a forward looking cost base using forecast budgets. The discussion paper notes that this approach could overcome the two year lag in the current methodology and match investment needs with charges more accurately. It comments, however,

¹⁷ Australian Energy Regulator, [Final decision: Ergon Energy \(distribution\) 2015-2020](#). Fact sheet, 2015. 1.

¹⁸ Frost, T. "Understanding the key commercial risks for regulated entities operating under the building block model." Presentation to the Business Valuation Special Interest Group, June 2013.

¹⁹ NTC, 2014, 12.

that the available data may not be sufficiently robust to produce reliable and stable forward cost estimates.²⁰

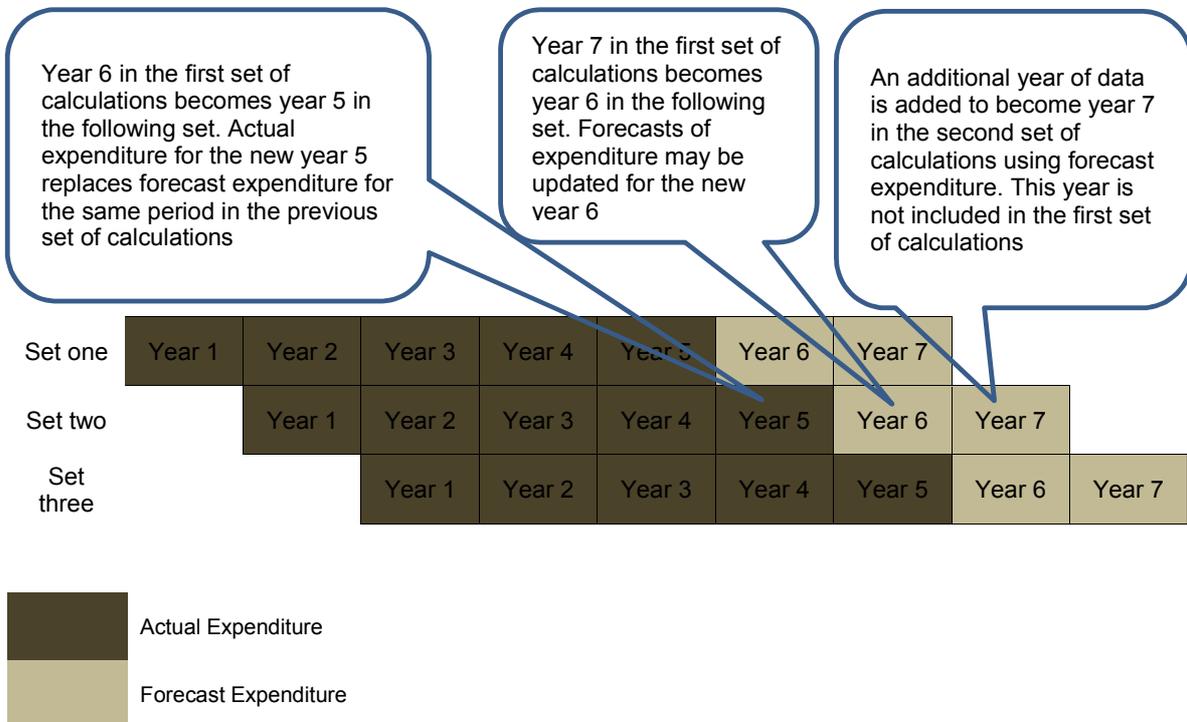
The ATA shares the NTC’s concerns about the quality of forward looking roads expenditure data. We do consider, however, that there are advantages to closing the two year gap in the cost base by moving the seven year averaging process forward to include one year of estimated and one year of forecast expenditure. In particular, we consider that it would help bring greater focus and scrutiny on road agencies’ investment decision making and forecasting processes.

If the 2014 determination had been conducted on the proposed basis, the cost base would have been calculated based on:

- Forecast expenditure for 2014-15
- Estimated expenditure for 2013-14 and
- Five years of actual expenditure to 2012-13.

Figure 3 shows how actual expenditure data would replace estimates and forecasts over the years.

Figure 3: Replacement of forecast with actual expenditure data



The ATA commissioned the Industrial Logistics Institute to model the effects of this approach.

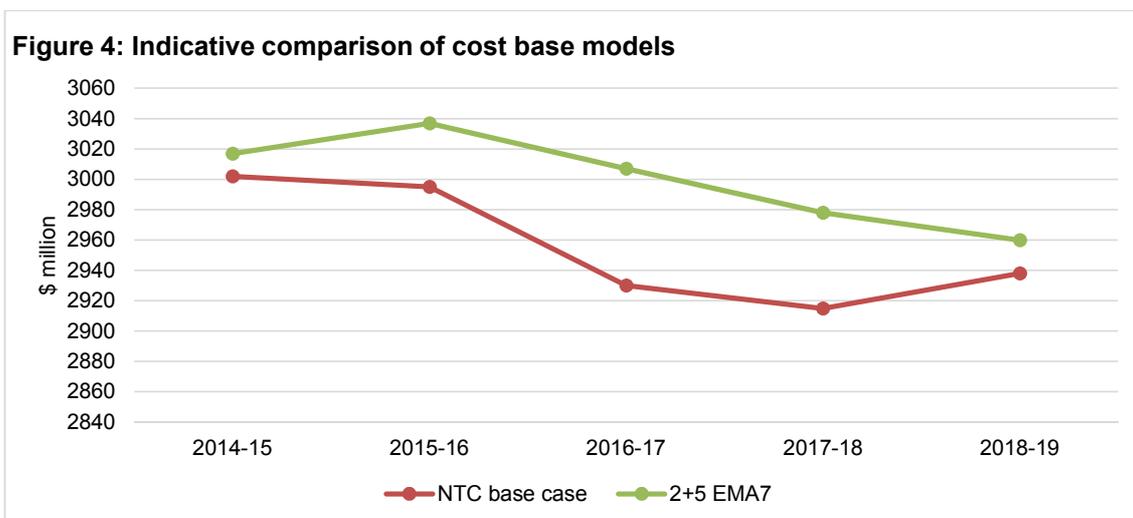
Figure 4 compares the NTC’s projections of the cost base in the 2016 information paper²¹ with looking ahead two years and applying the same weights used by the NTC. These EMA weights were applied for modelling purposes only.

The modelling, which should be regarded as indicative, suggests the application of the 2+5 approach would provide a slightly, but not unreasonably, higher estimate of the cost base.

²⁰ NTC, 2016, 20.

²¹ The ‘NTC base case’ line uses the figures in the cost base row of table 4 on p10 of NTC, 2015.

The ATA considers that this approach should address the revenue concerns of governments while still providing fair results for the industry, although the EMA weights used to calculate the cost base would need to be looked at again.



The ATA recognises that the use of estimated figures in the cost base would raise concerns about forecasting error. These concerns could be addressed in two ways:

- by replacing the forecast figures with more reliable estimates and then actuals in the calculation of the cost base once they become available and
- by including an unders and overs mechanism in the PAYGO model. This is considered further in the discussion about NTC option 4.

Recommendation 2

If recommendation 1 is not adopted, the NTC should investigate moving the cost base forward to include one year of forecast and one year of estimated expenditure. As part of its investigation, the weights in the EMA should be reviewed.

NTC option 3: Ring fencing heavy vehicle charges revenue

In its public infrastructure report, the Productivity Commission recommended the adoption of a well-designed road fund model, where independent road funds would make transparent funding decisions. The funds would receive hypothecated revenue from road users and government funding to cover community service obligations.²²

Similarly, the Harper competition review concluded that an initial step toward road reform could be for governments to set up road funds separate from their general budgets to increase transparency around road funding. The review recommended that fuel taxes and other indirect taxes levied on road users be hypothecated to these funds.²³

The ATA agrees with these recommendations. Establishing separate funds for road construction and maintenance would help separate long term infrastructure decisions from the budgetary and electoral cycles.

²² Productivity Commission, [Public infrastructure](#), May 2014, vol 1, p310.

²³ Harper, I et al. [Competition policy review: final report](#), March 2015. 216.

Separate funds would also be the essential first step toward regulating road funding and pricing under the building block model proposed by the NTC in option 1, because the funds could be subject to economic as well as price regulation.

The discussion paper argues that the full benefits of ring fencing would only be fully realised if it applied to both heavy and light vehicle revenues.²⁴ The ATA agrees. Ring fenced heavy vehicle revenue would amount to only 19 per cent of governments' expenditure on roads. Expenditure from the heavy vehicle funds would disappear into the overall budgetary process.

Accordingly, ring fencing heavy vehicle revenue should only be considered if:

- it would be part of a well-articulated plan to ring fence light vehicle revenue as well, possibly for part of the road system only. Highways England is an example of this approach
- it would be necessary to support the other changes to PAYGO recommended in this submission, such as the introduction of unders and overs and better charge smoothing.

Recommendation 3

Governments should establish independent road funds and hypothecate road-related revenue to them. Ring fencing heavy vehicle revenue should only be adopted as a step toward the establishment of more general road funds, or if it is necessary to support the other recommendations in this submission.

NTC option 4: Introduce an unders and overs account

Unders and overs accounts or carry forward mechanisms are a well-established feature of economic regulation.

The ATA considers that a limited unders and overs mechanism should be added to the PAYGO model to address two issues:

- forecasting errors resulting from the use of estimated and forecast expenditure figures and
- governmental concerns about revenue loss due to smoothing the trajectory of the road user or registration charges.

The NTC notes that the introduction of an unders and overs mechanism would require a decision about the interest rate to be applied to any carry forwards.²⁵ For simplicity, and to avoid contentious debates about setting the cost of capital (see above), the ATA would recommend applying the 10 year Commonwealth bond rate.

Recommendation 4

The NTC should investigate including an unders and overs mechanism in PAYGO to address:

- **forecasting errors resulting from the use of estimated and forecast expenditure figures and**
- **smoothing the trajectory of the road user or registration charges.**

²⁴ NTC, 2016, 22.

²⁵ NTC, 2016, 23.

NTC option 9: Independent price regulation

The ATA supports the Australian Government’s plan to transition to independent heavy vehicle price regulation by 2017-18.

Given the tight timeframe proposed by the Government, the ATA considers the NTC should have initial responsibility for price regulation, on the basis of the regulatory architecture set out in table 3. Legislation would be required at Commonwealth level and in all the states intending to adopt national registration charges.

Table 3: Possible architecture for independent price regulation

Overarching legislation	<p><i>National Transport Commission Act 2003</i>, amended to:</p> <ul style="list-style-type: none"> - empower the NTC to make pricing determinations - enable the ministerial council to making legally binding pricing rules, in accordance with legislated pricing and consultation principles. The legislated principles would need to provide that the goal of the price regulation system is to recover costs (including opportunity costs as appropriate) not to generate a profit for governments - make it clear that the ministerial council does not have the power to override or review NTC pricing determinations - establish appeal rights, including merits-based appeals to the Australian Competition Tribunal.
Pricing rules	Pricing rules under the Act would set out a step by step process for making pricing determinations. The rules would have the force of the law and would bind the NTC.
Pricing guidelines	The NTC would be able to make guidelines under the rules, such as guidelines for jurisdictional expenditure reporting.
Setting the road user charge	Section 43-10 of the <i>Fuel Tax Act 2006</i> (Cth) would be amended to enable the NTC to determine the road user charge, rather than the responsible minister. The consultation provisions could be removed; however, ss 43-10(11A) and 43-10(12) should be retained.
Setting registration charges	The Heavy Vehicle Charges Model Law and the laws of participating jurisdictions (including the <i>Interstate Road Transport Charges Regulations 2009</i>) would be amended to enable the NTC to determine registration charges, instead of the ministerial council.
Appeals	<p>Pricing decisions would be appealable on their merits to the Australian Competition Tribunal.</p> <p>In addition, RUC determinations would continue to be subject to parliamentary disallowance.</p>

In the longer term, the price regulation role of the NTC, or the single Access and Pricing Regulator recommended by the Harper Review, could be expanded to cover economic regulation. This could occur when appropriate supply side arrangements are in place.

Recommendation 5

The NTC should be designated as the independent pricing regulator for heavy vehicle charges. Its decisions should be enforceable and subject to merits review by the Australian Competition Tribunal.

7. Additional ATA proposals

Addressing cashflow issues and compliance costs

Section 5 of this submission examines the impact of high registration charges and the requirement for heavy vehicles to have registration labels.

There is no reason the registration system has to work this way.

Between 2010 and 2014, every state and territory removed their requirement for light vehicles to have registration labels. South Australia now allows light vehicle owners to make monthly registration payments by direct debit or credit card, and can send vehicle owners a reminder by email or SMS before their registration expires.

The Western Australian Government removed the requirement for heavy vehicles to have registration labels on 1 July 2016. The WA Government said the decision would save thousands of hours of industry time per year and some \$200,000 a year in government costs.²⁶

The ATA considers that the WA approach to removing labels should be extended nationally. To reduce the cashflow burden of high registration charges, operators should be able to make monthly payments.

The ATA is aware that some operators use their registration labels as a way of keeping track of when their renewals are due. As a result, vehicle owners should be able to opt in to receive reminders by SMS or email.

Recommendation 6

As part of the reforms to heavy vehicle charging, the requirement for heavy vehicles to have registration labels should be removed.

Heavy vehicle operators should be able to pay registration charges on a monthly basis by direct debit. Operators should be able to opt in to receive reminders by SMS/email about registration payments that are due.

Increasing accountability and transparency

In the 2014 RIS, the NTC recommended a one-off audit/review of expenditure data modelled on option 4 in table 10 of the RIS. The cost of this audit was to be recoverable from heavy vehicle charges.²⁷

The audit has not yet gone ahead, due to the NTC's entirely appropriate focus on developing the PAYGO discussion paper.

The ATA considers that any reforms to the PAYGO model must include regular audits, particularly if the cost base is altered to include estimated and forecast expenditure.

The expenditure template should also be revised so that expenditure reported in the template can be matched against the four-year road expenditure and investment plans for key freight routes released by the Transport and Infrastructure Council.

²⁶ Nalder, D. [Heavy vehicle registration stickers to be phased out](#), Media release, 24 March 2016.

²⁷ NTC, 2014, 22-23.

Recommendation 7

Any reforms to PAYGO should include regular audits of state expenditure data.

Recommendation 8

The NTC expenditure reporting template should be revised so expenditure reported in the template can be matched against the four year expenditure and investment plans for key freight routes released by the Transport and Infrastructure Council.

Carrying out determinations every five years

At present, heavy vehicle charges determinations are triggered by a joint decision of transport ministers through the Transport and Infrastructure Council. The NTC can also suggest triggering a determination if a proposed annual adjustment does not meet the COAG pricing principles.²⁸

Because of the uncertainty about the timing of determinations, the charging methodology is endlessly re-litigated. Reviews are commissioned before the results of changes to the model can be evaluated. Major engineering and economic research projects are considered without any clarity about when the results could be put into effect.

Many regulated sectors have five year regulatory periods. Adopting a fixed, five year period for road user charging determinations would provide enough time for research projects – such as those proposed in NTC options 7 and 8 – to be carried out with certainty about the date the results are required.

A fixed determination period would enable the path of the road user and registration charges to be smoothed, if recommendation 10 was adopted.

Adopting a five year period would also fit the Australian Government's plan to transition to independent heavy vehicle price regulation by 2017-18. The incoming independent regulator – whether it is the NTC or another agency – would have time to develop a new determination based on the recommendations in this submission in time for it to come into force in 2019, five years after the 2014 determination.

In the interim, charges for 2017-18 should be set to maintain the agreed freeze on revenue; charges for 2018-19 should implement as many of the ATA recommendations as possible.

²⁸ NTC, [Heavy vehicle charges review policy paper](#), May 2013. 66.

Recommendation 9

Heavy vehicle charging determinations should be developed on a five year cycle, with the next determination to come into force in 2019.

Smoothing changes to heavy vehicle charges

As table 2 shows, heavy vehicle registration charges are unpredictable and unstable.

ATA recommendations 4, 5, 9 and if required 3 would establish an environment where the NTC could implement a smoothed path for heavy vehicle charges throughout a determination period, rather than imposing sudden, disruptive changes.

The implementation of an unders and overs account with an appropriate interest rate would mean that governments could be indifferent to the smoothing process: the NPV of their revenue would be the same.

The COAG pricing principles should be revised if necessary to accommodate this approach.

Recommendation 10

The NTC should be able to determine a smoothed path for heavy vehicle charges throughout each determination period. The COAG pricing principles should be revised if necessary to accommodate this approach.