



OBPR ADVICE SOUGHT

TO: OBPR
FROM: MEENA NAIDU - NTC
DATE: 10/11/2011
RE: RECALIBRATION OF HEAVY VEHICLE CHARGES

Background

NTC is responsible for calculating heavy vehicle charges for determination by the Australian Transport Council (ATC). Heavy Vehicle Charges consist of registration charges and a fuel based Road User Charge (RUC). Following a productivity Commission Inquiry in 2006, COAG directed ATC to undertake a new charges determination to meet the following requirements:

- On-going cost recovery in aggregate, but no over-recovery; and
- No cross-subsidisation between vehicle classes.

In order to achieve these principles, following extensive consultation NTC introduced a new charging structure which led to significant increases for some vehicle components and decreases for others. In calculating the charges NTC utilised the best research available at the time, recognising that further work was required to improve the robustness of that research.

NTC also introduced a new annual adjustment formula which sought to ensure on-going cost recovery by increasing both registration charges and the RUC by the percentage increase in road expenditure from year to year.

The Determination was approved by ATC in February 2008.

Subsequent to the Determination, NTC made a technical modification to the annual adjustment to account for changes in the fleet mix. This adjustment was approved by OBPR and exempted from RIS as it corrected a technical error and ensured the policy decisions of the original Heavy Vehicle Charges RIS were adhered to.

Discussion

Three issues have arisen which require further amendment to heavy vehicle charges.

1. Research on cost allocation has been undertaken which comprehensively updates the technical research NTC used to calculate charges in the original Charges Determination. Due to data limitations at the time, NTC originally estimated the vehicle road wear

relationship (known as Equivalent Standard Axles or ESAs) using average gross mass (AGM) and only on a sample of configurations. The new research uses actual mass data captured through Weigh In Motion (WIM) stations to calculate the actual ESA for each vehicle configuration. The research shows that the current charges do not reflect the consulted and approved policy of marginal cost recovery (i.e. some vehicles no longer recover their marginal costs). This research does not change the charges methodology: it simply updates the underpinning data. NTC's initial analysis using this new data shows a decrease in charges particularly for B-doubles and B-triples and an increase in charges for the rigid fleet.

2. At the time of undertaking the Determination, NTC did not have adequate data on the usage of B-Triples. It therefore assumed the vehicle configuration would have similar access to a B-double. However, ultimately access for the B-triple has been limited to the road train network. Vehicles operating exclusively on the road train network are subject to a discount due to the largely unsealed nature of the road network. B-triples should be subject to the same discount which is around 19%.
3. Recent natural disasters have resulted in the establishment of a flood levy to raise funds for reconstruction. The NTC annual adjustment formula has not anticipated the creation of such a levy and, as a result now results in an over-recovery of expenditure. NTC's initial analysis shows the impact of this adjustment is a reduction of up to 1% of charges.

None of these data issues reflects a change in policy. They reflect technical numerical updates to existing consulted on and agreed policy. As such, there are no alternatives to the research.

As with the previous technical adjustment to the annual adjustment, failure to incorporate these new findings will result in the breach of the COAG principles and agreed recommendations from the original determination. NTC also notes that prior to NTC commencing the last Heavy Vehicle Charges Determination, the Productivity Commission reviewed NTC charges methodology and found the methodology sound although found that further research would be required to ensure appropriate cost allocation... The adoption of the new research does not represent a change to the methodology – simply an updating of cost allocation research.

Recommendation

NTC is seeking approval from OBPR to correct heavy vehicle charges taking using the new research on cost allocation and making a deduction to take into account expenditure funded from the flood levy without the requirement for a RIS.

NTC notes that failure to make these technical adjustments prior to the next annual adjustment will lead to the significant disadvantage of the most productive part of the heavy vehicle fleet, further encouragement on the uptake of greater road damaging heavy vehicles. Further the heavy vehicle industry as a whole will be disadvantaged by the double cost recovery of disaster reconstruction activity.

As a result of this, Transport ministers are looking for a quick resolution to these technical amendments.

Ridgway, Michael

From: Binh Le [ble@ntc.gov.au]
Sent: Monday, 14 November 2011 12:02 PM
To: Ridgway, Michael
Subject: RE: Teleconference request - Heavy Vehicle Charges discussion [SEC=UNCLASSIFIED]

Thanks Michael

From: Ridgway, Michael [mailto:Michael.Ridgway@finance.gov.au]
Sent: Monday, 14 November 2011 11:59 AM
To: Binh Le
Subject: RE: Teleconference request - Heavy Vehicle Charges discussion [SEC=UNCLASSIFIED]

02 6215 3946

From: Binh Le [mailto:ble@ntc.gov.au]
Sent: Monday, 14 November 2011 11:32 AM
To: Ridgway, Michael
Subject: RE: Teleconference request - Heavy Vehicle Charges discussion [SEC=UNCLASSIFIED]

Iets lock it in Michael – what's the best number for us to call you on?

From: Ridgway, Michael [mailto:Michael.Ridgway@finance.gov.au]
Sent: Monday, 14 November 2011 10:43 AM
To: Binh Le
Subject: RE: Teleconference request - Heavy Vehicle Charges discussion [SEC=UNCLASSIFIED]

Would 11.30am work?

From: Binh Le [mailto:ble@ntc.gov.au]
Sent: Monday, 14 November 2011 8:11 AM
To: Ridgway, Michael
Subject: RE: Teleconference request - Heavy Vehicle Charges discussion [SEC=UNCLASSIFIED]

Morning Michael – could you advise of another time between 10:30 – 2pm tomorrow.....members of our team are unavailable at 3pm.

Binh

From: Ridgway, Michael [<mailto:Michael.Ridgway@finance.gov.au>]
Sent: Friday, 11 November 2011 3:02 PM
To: Binh Le
Subject: RE: Teleconference request - Heavy Vehicle Charges discussion [SEC=UNCLASSIFIED]

Hi Bin

Tuesday would be better for us, would 3pm work?

Michael

From: Binh Le [<mailto:ble@ntc.gov.au>]
Sent: Friday, 11 November 2011 10:15 AM
To: Ridgway, Michael; Prior, Gerard
Subject: Teleconference request - Heavy Vehicle Charges discussion
Importance: High

RECALIBRATION OF HEAVY VEHICLE CHARGES

Morning Michael and Gerard

Are you available next Monday for a teleconference between NTC and OBPR to discuss heavy vehicle charges issues? NTC is seeking OBPR's view. The attached paper provides a broad overview of the matter at hand and the issues to be discussed.

Please let me know of a time that suitable and also the best number to call on.

Cheers

Binh
NTC

Finance Australian Business Number (ABN): 61 970 632 495
Finance Web Site: www.finance.gov.au

Ridgway, Michael

Wilson, David
From: **Sent:** Tuesday, 15 November 2011 5:20 PM
To: Ridgway, Michael
Cc: Kotz, Jodette; Athaide, Annesley
Subject: RE: Teleconference request - Heavy Vehicle Charges discussion [SEC=UNCLASSIFIED]

Yep, thanks Michael

From: Ridgway, Michael
Sent: Tuesday, 15 November 2011 1:01 PM
To: Wilson, David
Cc: Kotz, Jodette; Athaide, Annesley
Subject: FW: Teleconference request - Heavy Vehicle Charges discussion [SEC=UNCLASSIFIED]
Importance: High

David

Attached is PA from the NTC. In addition I had a phone conference with staff from the NTC this morning. The proposed changes appear machinery. They are simply adjusting the rates they charge, in accordance with initial policy, for new data and information, and an unanticipated event.

Can I send through NFA advice?

Michael

From: Binh Le [<mailto:ble@ntc.gov.au>]
Sent: Friday, 11 November 2011 10:15 AM
To: Ridgway, Michael; Prior, Gerard
Subject: Teleconference request - Heavy Vehicle Charges discussion
Importance: High

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Cheers

Binh
NTC

Ridgway, Michael

From: Binh Le [ble@ntc.gov.au]
Sent: Wednesday, 16 November 2011 4:47 PM
To: Ridgway, Michael
Cc: Wilson, David; Kotz, Jodette; Whiteford, Allison
Subject: Re: Teleconference request - Heavy Vehicle Charges discussion [SEC=UNCLASSIFIED]

Thanks Michael
Binh Le
Manager of Finance & Governance
National Transport Commission
M: 0427 475 744

From: Ridgway, Michael [mailto:Michael.Ridgway@finance.gov.au]
Sent: Wednesday, November 16, 2011 04:39 PM
To: Binh Le
Cc: Wilson, David <David.Wilson@finance.gov.au>; Kotz, Jodette <Jodette.Kotz@finance.gov.au>; Whiteford, Allison <Allison.Whiteford@finance.gov.au>
Subject: RE: Teleconference request - Heavy Vehicle Charges discussion [SEC=UNCLASSIFIED]

OBPR ID: 2011/13304

Office of Best Practice Regulation
Ground Floor, Minter-Ellison Building
National Circuit, Barton ACT 2603
AUSTRALIA

Binh Le
National Transport Commission

Dear Binh

Re: Heavy Vehicle Charges.

Thank you for the preliminary assessment provided on 11 November 2011 in relation to the above-mentioned proposal. On the basis of the information you have provided, the OBPR considers that these amendments will have machinery impacts. Therefore no further analysis (in the form of a Regulation Impact Statement (RIS)) is required.

Please note our reference for this proposal is ID 13304. If you have any further queries you can contact me on 6215 3946 or via email.

Regards

Michael Ridgway

Senior Policy Analyst
Financial Markets Practice Regulation
Department of Finance & Deregulation
Tel: 6215 3946

From: Binh Le [<mailto:ble@ntc.gov.au>]

Sent: Friday, 11 November 2011 10:15 AM

To: Ridgway, Michael; Prior, Gerard

Subject: Teleconference request - Heavy Vehicle Charges discussion

Importance: High

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Binh
NTC

Finance Australian Business Number (ABN): 61 970 632 495
Finance Web Site: www.finance.gov.au

IMPORTANT:

Ridgway, Michael

From: Binh Le [ble@ntc.gov.au]
Sent: Wednesday, 25 January 2012 5:23 PM
To: Ridgway, Michael
Cc: Wilson, David; Meena Naidu; Peter Halligan
Subject: Heavy Vehicle Charges - Enquiry

Importance: High

Hi Michael

Continuing on from our conversation earlier, the industry has recommended the reintroduction of cross subsidisation through a standard axle charge. The NTC believes this option would require a RIS as it represents a fundamental change to the following:

- a). Principle – The change represents a departure from the current COAG pricing principle of no cross subsidisation between vehicle classes. (“ensure the ongoing delivery of full expenditure recovery in aggregate and remove cross-subsidisation across different heavy vehicle classes.”)
- b). Methodology – The proposed methodology reverts to back to a previously replaced standard axle charge before the 2007 determination.
- c). Policy – The industry proposal runs contrary to the wider road reform agenda endorsed by COAG.

From our preliminary assessment, the recommendation by industry would require a RIS as it goes beyond the machinery of government. We are now seeking OPBR’s view as to whether NTC’s preliminary assessment is correct.

We would appreciate your guidance as to whether or not you agree and in detail the justification behind it.

Regards

Binh
NTC

From: Ridgway, Michael [<mailto:Michael.Ridgway@finance.gov.au>]
Sent: Wednesday, 16 November 2011 4:39 PM
To: Binh Le

Cc: Wilson, David; Kotz, Jodette; Whiteford, Allison
Subject: RE: Teleconference request - Heavy Vehicle Charges discussion [SEC=UNCLASSIFIED]

OBPR ID: 2011/13304

Office of Best Practice Regulation
Ground Floor, Minter-Ellison Building
National Circuit, Barton ACT 2603
AUSTRALIA

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Michael Ridgway
Policy Entry Analyst
Office of Best Practice Regulation
Department of Finance & Deregulation
Tel: 6215 3946

From: Binh Le [mailto:ble@ntc.gov.au]
Sent: Friday, 11 November 2011 10:15 AM
To: Ridgway, Michael; Prior, Gerard
Subject: Teleconference request - Heavy Vehicle Charges discussion
Importance: High

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Please let me know of a time that suitable and also the best number to call on.

Cheers

Binh
NTC

Finance Australian Business Number (ABN): 61 970 632 495
Finance Web Site: www.finance.gov.au

IMPORTANT:

This transmission is intended only for the use of the addressee and may contain confidential or legally privileged information. If you are not the intended recipient, v
If you have received this transmission in error, please notify us immediately by telephone on 61-2-6215-2222 and delete all copies of this transmission together with
If responding to this email, please send to the appropriate person using the suffix .gov.au.

Ridgway, Michael

From: Wilson, David
Sent: Thursday, 2 February 2012 11:19 AM
To: Ridgway, Michael
Subject: FW: Possible FOI request - ATA and National Transport Commission discussion paper [SEC=UNCLASSIFIED]

As discussed, could you have a look at this please Michael

From: Sutton, Dana
Sent: Thursday, 2 February 2012 10:29 AM
To: Wilson, David
Cc: Ramsay, James
Subject: Possible FOI request - ATA and National Transport Commission discussion paper [SEC=UNCLASSIFIED]

Hi David

As discussed, I received a phone call from Mr David Coonan, National Manager, Policy, Australian Trucking Association (ATA) regarding a possible FOI request.

He wants to know if OBPR have provided advice to the National Transport Commission (NTC) regarding whether a RIS is required in relation to certain options that are set out in the NTC discussion paper <http://www.ntc.gov.au/filemedia/general/AmendmentstoHeavyVehicle.pdf>

You will see from the Discussion paper that there are a number of options and statements as to whether a RIS would or would not be required for that option.

The ATA have asked NTC to clarify this, but they have not responded.

I indicated that I would call Mr Coonan back later today (his number is 6253 6933) and let him know if he needs to lodge an FOI request to obtain an answer to his queries. I confirmed that the FOI Act provides access to **documents**.

Could you please consider and get back to me so that I can return his call.

thanks
Dana Sutton



Australian Government
Department of Finance and Deregulation

Reference: FOI 12/20
Contact: Jill Clark
Telephone: (02) 6215 1783
e-mail: Jill.Clark@finance.gov.au

Mr David Coonan
National Manager – Policy
Minter Ellison Building
25 National Circuit
Forrest, ACT, 2603

By email: ata@truck.net.au

Dear Mr Coonan,

Freedom of Information Request – FOI 12/20

I refer to your email dated 2 February 2012 to the Department of Finance and Deregulation (Finance) in which you sought access under the *Freedom of Information Act 1982* (FOI Act) to:

Our application for information is in relation to discussions arising between the Office of Best Practice Regulation (OBPR) and the National transport Commission (NTC) regarding the adjustment to A-trailer charges and the annual adjustment as referred to in the NTC's discussion paper Heavy Vehicles Charges Issues Consultation Paper released in December 2011.

We wish to obtain:

1. Copies of all emails, correspondence, officer notes and other such documentation or transcripts, whether hard copy or electronic, in relation to discussions between OBPR and the NTC relating the above mentioned discussion paper. Most likely, this occurred sometime between December 2011 and February 2012.

2. Copies of all emails, correspondence, officer notes and other such documentation or transcripts, whether hard copy or electronic, in relation to discussions between OBPR and the NTC in relation to machinery adjustments of the charging model and the need or otherwise of a regulatory impact statement that may have occurred during 2011. Most likely, this is a brief exchange between officers of the respective agencies occurring during the middle part of 2011.

Decision

In accordance with subsection 23(1) of the FOI Act, I am authorised to make a decision under the FOI Act. In making my decision, I have had regard to those documents held by Finance as of the date of your request.

I have identified six (6) documents as falling within the scope of your FOI request. I have decided to release, in full, all of the relevant documents.

The documents are identified in the Schedule at Attachment A. Copies of the relevant documents to be released are **attached**.

Charges

I have decided to exercise my discretion under section 29 of the FOI Act to waive all charges in relation to the processing of your request.

Publication

The FOI Act requires Commonwealth agencies to publish:

- information in documents to which the agency routinely gives access in response to FOI requests except where that information is exempt under the FOI Act; and
- information in documents released under the FOI Act.

Documents provided to you under the FOI Act will be published on Finance's Disclosure Log (www.finance.gov.au). It is Finance's practice to publish copies of materials on its Disclosure Log as soon as possible after the documents are provided to the Applicant.

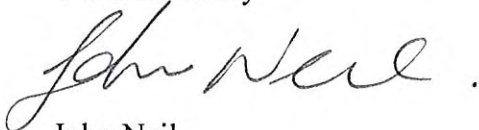
Review and Appeal Rights

The process for review and appeal rights is set out at Attachment B.

Further Assistance

Should you have any queries concerning this matter, please do not hesitate to contact Ms Jill Clark on (02) 6215 1783.

Yours sincerely



John Neil
Director
Regulatory Frameworks Branch
Deregulation Group
5 March 2012

SCHEDULE OF DOCUMENTS RELEVANT TO FOI REQUEST No. 12/20

Document No.	Date of Document	No. of Pages	Author	Addressee	Description of Document	Decision *
1	10 November 2011	2	NTC	OBPR	Request for advice from OBPR	R
2	14 November 2011	2	NTC	Finance	Email: Teleconference request – Heavy Vehicle Charges discussion	R
3	15 November 2011	4	David Wilson	Michael Ridgway	Email: Teleconference request – Heavy Vehicle Charges discussion with document 1 as attachment	R
4	16 November 2011	2	NTC	OBPR	Email: Teleconference request – Heavy Vehicle Charges discussion	R
5	25 January 2012	3	NTC	OBPR	Email: Heavy Vehicle Charges – Enquiry	R
6	2 February 2012	1	David Wilson	Michael Ridgway	Email: Possible FOI request – ATA and National Transport Commission discussion paper	R



Australian Government
Department of Finance and Deregulation

Freedom of Information – Your Review Rights

If you disagree with the decision made by the Department of Finance and Deregulation (Finance) under the *Freedom of Information Act 1982* (the FOI Act), you can ask for the decision to be reviewed. You may want to seek review if you sought certain documents and were not given full access, if you have been informed that there will be a charge for processing your request, if you have made a contention against the release of documents that has not been agreed to by the Department, or if your application to have your personal information amended was not accepted. There are two ways you can ask for review of a decision: internal review by Finance, or external review by the Australian Information Commissioner.

Internal Review

If Finance makes an FOI decision that you disagree with, you can ask Finance to review its decision. The review will be carried out by a different agency officer, usually someone at a more senior level. There is no charge for internal review.

You must apply within 30 days of being notified of the decision, unless Finance agrees to extend the application time. You should contact Finance if you wish to seek an extension.

Finance is required to make a review decision within 30 days. If Finance does not do so, the original decision is considered to be affirmed.

How to apply for internal review

You must apply in writing and should include a copy of the notice of the decision provided and the points you are objecting and why. You can lodge your application in writing through one of the contact details provided at the end of this document.

Review by the Australian Information Commissioner (IC)

The IC is an independent office holder who can review the decisions of agencies and ministers under the FOI Act. The IC can review access refusal decisions (s 54L(2)(a) of the FOI Act), access grant

decisions (s 54M(2)(a)), refusals to extend the period for applying for internal review under s 54B (s 54L(2)(c)), and agency internal review decisions under s 54C (ss 54L(2)(b) and 54M(2)(b)).

If you are objecting to a decision to refuse access to documents, impose a charge or refuse to amend a document, you must apply to the IC within 60 days of being given notice of the decision. If you are objecting to a decision to grant access to another person, you must apply within 30 days of being notified of that decision.

Do I have to go through Finance's internal review process first?

No. You may apply directly to the IC. However, going through Finance's internal review process gives Finance the opportunity to reconsider its initial decision, and your needs may be met more quickly without undergoing an external review process.

Do I have to pay?

No. Review by the IC is currently free.

Sarah Harber

From: Meena Naidu [meena.naidu@ntc.gov.au]
Sent: Monday, 27 February 2012 9:46 AM
To: Steve Shearer <steves@sarta.org.au> (steves@sarta.org.au); David Coonan shaz@wline.com.au; carlh@hi-trans.com.au; paulm@collinsadelaide.com; Sarah Harber
Cc:
Subject: FW: Heavy Vehicle Charges discussion - clarification [SEC=UNCLASSIFIED]

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: TELECONFERENCE

Steve, David,

Please find attached below the advice provided by OBPR.

Happy to talk you through our recommendations – let me know when is a good time to talk.

Kind regards
Meena

Chief Officer Policy
Ph: (03)9236 5035
Mb: 0417 447 071

From: Ridgway, Michael
Sent: Tuesday, 14 February 2012 2:23 PM
To: Binh Le
Cc: Meena Naidu; Peter Halligan; Wilson, David; Sriram-Prasad, Usha
Subject: RE: Heavy Vehicle Charges discussion - clarification [SEC=UNCLASSIFIED]

Hi Binh

Re: Heavy Vehicle Charges

Thanks for sending through further information clarifying what the NTC is doing in regards to Heavy Vehicle Charges. In light of this information we would like to make it clear how the RIS requirements apply in this situation.

In this case it is important to firstly consider what type of decision is to be made; a decision on adjusting charges within the established pricing principles, or a decision on what the pricing principles should be going forward.

If the NTC intends to put forward a submission to the decision maker that only consider changes that fall within the established pricing principles, as was described in the information emailed to the OBPR on 11 November 2011, then no RIS is required. As noted in our initial response to that email, based on information the NTC provided, the OBPR considers these changes to be machinery in nature.

If instead the intention is to for the decision maker to review and consider changing the overall pricing principles for heavy vehicle charges, then a RIS will be required. This is based on the information provided by the NTC in the email of 9 February 2012, which contained options for consideration that are regulatory and likely to have impacts greater than minor or machinery. To be clear, a RIS will be required even if the recommended option in such a submission was to maintain the current pricing principles.

To avoid confusion, it would also be preferable to separate the two processes (ie adjusting charges within the current pricing principles, and a broader review of the pricing principles) that appear to have been combined in the discussion paper released in December 2011. This is so that a decision that does not require a RIS is not combined with a decision that does require a RIS in the one consultation process. The broader review of pricing principles can

include as an option maintaining current pricing principles and adjusting charges within this framework, but it would not be accurate to say that this option does not require a RIS as in this case it is part of an overall decision that does require a RIS.

We would appreciate it if you could keep us informed of developments on this issue, in particular on the type of decision to be made.

Regards

Michael Ridgway
Regulatory Analyst
Office Best Practice Regulation
Department of Finance & Deregulation

From: Ridgway, Michael
Sent: Wednesday, 16 November 2011 4:39 PM
To: Binh Le
Cc: Wilson, David; Kotz, Jodette; Whiteford, Allison
Subject: RE: Teleconference request - Heavy Vehicle Charges discussion [SEC=UNCLASSIFIED]

OBPR ID: 2011/13304

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Ground Floor, Minter-Ellison Building
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