



Department  
for Transport

## Summary of Responses to Informal targeted consultation

Red Tape Challenge (RTC) & Logistics  
Growth Review (LGR) - Request for  
views on commitments related to  
drivers' hours; tachographs and the  
support of green technology through  
the Operator Licensing Regime

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# Contents

Issue	4
Responses received	5
1. Summary of responses and outcomes by proposal	6
Proposal 1: Exempt vehicles carrying cash/valuables from the EU driver' hours rules	6
Proposal 2: Adopt the European timescales for downloading digital	7
Proposal 3: Removal of regulations from the statute books	8
Proposal 4: Incentivising the use of goods vehicles using greener technologies through the operator licensing system	10

# Issue

On 12 December 2012, in accordance with the new consultation principles, DfT issued a targeted 10 week consultation with industry stakeholders, seeking views on the implementation of three deregulatory commitments in DfT's published document "Red Tape Challenge - Road Transportation":

- taking up the final exemption allowed in the EU drivers' hours rules for vehicles carrying cash/valuables;
- adopting the European timescales for downloading digital data from a tachograph to the maximum 90 days; and
- removing three regulations from the statute book
  - The Drivers' Hours (Goods Vehicles) (Keeping of Records) Regulations 1987
  - Drivers' Hours (Passenger and Goods Vehicles) (Exemption) Regulations 1996
  - The Passenger and Goods Vehicles (Recording Equipment) Regulations 1989

In addition, the consultation sought views on the commitment in the DfT published document "The Logistics Growth Review - Connecting People with Goods" to explore opportunities to support green technologies through the operator licensing regime.

The consultation was also published on our website and a copy of the consultation can be viewed and downloaded at:

<https://www.gov.uk/government/consultations/dft-red-tape-challenge-and-logistics-growth-review-commitments>

The closing date for comments was 22 February 2013.

# Responses received

1. DfT received 20 responses from:

- Freight Transport Association
- Transport for London
- Confederation of passenger Transport
- Society of Motor Manufacturers and Traders
- Vehicle Operator Services Agency
- Traffic Commissioners
- Association of Chief Police Officers
- West Yorkshire Police
- Tachodisc
- UNITE
- GMB
- National Farmers Union
- Historic Towns Forum
- Firstgroup
- Security Plus
- JouleVert
- Prins Autogas UK
- ASDA
- Jumbocruiser
- Roy Gould - Individual

# 1. Summary of responses and outcomes by proposal

## Proposal 1: Exempt vehicles carrying cash/valuables from the EU driver' hours rules

- 1.2** 11 of the respondents commented on Proposal 1. Of these 8 (73%) were not in favour of taking up the derogation and 3 (27%) were in favour.
- 1.3** It should be noted that those not in favour included a trade association representing the views of operators in the security industry; two Unions and three enforcement bodies. It was generally felt that as the industry was operating within the EU drivers' hours rules with no apparent problems and had not lobbied the Government to take up the derogation, then it should not be taken up. One respondent said:
- “While at first sight the proposal offers a relaxation, one of our members who operates significantly in this sector has stated that, because of the 11 hour duty limit in domestic drivers hours rules, this would impinge upon their operation. Their operation is set up around EU drivers hours rules; their fleet manager has described the proposal as “catastrophic” for their operation.”*
- 1.4** In addition, another respondent pointed out that if the industry themselves have been working under the EU drivers' hours rules for all these years without requesting the derogation be picked up, then why would we want to do it.
- 1.5** Of those that were in favour, one was on the proviso that safety would not be compromised; that it did not involve a large number of vehicles; and that regulations were drafted to ensure that it truly was cash/valuables that are exempted and not just valuable loads, which could be said of almost any load. There was one respondent from the security industry that was in favour of taking up the derogation, saying that:
- “Can see very few reasons why we would have any objections to this. Initially concerned that operating under the domestic rules (11 hours duty) would impact on the business but having studied our existing shift patterns it is clear that there would be very little, if any negative impact.”*

### Summary of outcomes for proposal 1

- 1.6** The majority of those consulted did not believe the DfT should take up the derogation. Most importantly this included those representing operators who carry cash/valuables as part of their business. It was felt

that these businesses' practices and working pattern fit better with the EU drivers' hours rules, which they had been following without difficulty for years. Therefore, it has been decided that DfT will not be taking up this derogation, as it would not benefit the industry.

## Proposal 2: Adopt the European timescales for downloading digital

**1.7** 12 of the respondents commented on proposal 2 with 5 (42%) in favour of adopting the European timescales and 7 (58%) against.

**1.8** Those in favour included two Trade Associations and two operators. Generally those in favour thought this would be a welcome flexibility for operators. A Trade Association explained that:

*“Many operators undertake the download from the vehicle unit (VU) as part of the periodic maintenance inspection. The interval between inspections is determined in an undertaking to the Traffic Commissioner and can vary between operators. While many operators have a 6 week interval, which allows the download comfortably to fall within 56 days, many also have 8 weekly inspections which means complying with this requirement can be tight. Operators are able to have inspections at greater intervals where they can assure the Traffic Commissioner their safety systems are robust enough. Extending the maximum period between VU downloads will mean more operators will be able to combine this process with the periodic maintenance inspection thereby streamlining the system and aiding compliance.”*

**1.9** In addition, it was pointed out that adopting this proposal would improve the situation for those operators who operate long international journeys and tours over 56 days; as it was difficult to download the data whilst abroad. One operator who carries musicians around Europe in sleeper coaches said it was not unusual for a coach to be serviced abroad and not be back home for several months. Most of their coaches still run analogue tachographs but it was difficult to comply with the 56-day download limit on their few digital ones. They felt that if they could extend the required period it would reduce their problems dramatically.

**1.10** Those not in favour of adopting the European timescales (a Union and three enforcement bodies) generally felt that the current timescales worked and were generous enough. All those opposed thought the adoption of this proposal could make it more difficult for operators to monitor their drivers' adherence to the drivers' hours rules. One said:

*“If we move the 56 out to 90 days it would be extremely detrimental to VOSA's enforcement capabilities.”*

**1.11** One enforcement body also said:

*“Operators and transport managers are responsible for and will be held to account for ensuring that drivers comply with the [drivers] hours rules. Because of that, it is not uncommon in the compliant sector of the industry for vehicle units to be downloaded weekly. It is not an arduous task – it is not necessary to stay with the vehicle while data are being downloaded. Technology has progressed significantly since 2006.*

*Affordable yet effective download keys are now readily available within the UK – even on ebay. More recent digital tachographs can be downloaded remotely”.*

**1.12** One respondent also said the following on the question of risks:

*“Adopting less stringent timescales would obviously lead to inferior enforcement and allow more abuses to slip through the net making the roads more unsafe for all users. With the increased amounts of agency working in the logistics sector this 90 day limit would make it easier for abuses to take place and for abuses by agency workers in particular never to be detected.”*

## **Summary of outcomes for proposal 2**

**1.13** The responses showed a split between those representing operators, who wanted us to adopt the European timescales, as it gave them more flexibility, and enforcement agencies, who thought doing so could hinder enforcement, as it could make it more difficult to gather evidence for prosecutions. We do not believe these enforcement difficulties will be significant, though.

**1.14** Adopting shorter timescales than required by the EU is applying an additional burden on business.

**1.15** The DfT have therefore decided to adopt the European maximum timetable for downloading data of 90 days.

## **Proposal 3: Removal of regulations from the statute books**

**1.16** Drivers' Hours (Goods Vehicles) (Keeping of Records) Regulations 1987 - remove the requirement for a small number of drivers to keep records of their driving time

**1.17** 10 respondents commented on this regulation. Of these 7 (70%) thought this requirement to keep driver records shouldn't be removed and 3 (30%) thought it should be removed.

**1.18** Those that thought this requirement should remain (which included trade association, Union and enforcement body) thought that a written record of driving time for drivers of vehicles over 3.5 tonnes (that did not come under the EU drivers' hours rules) was essential to aid enforcement and combat the dangers of road safety / driver fatigue. One said that:

*“Removing the requirement to keep records would make it extremely difficult for VOSA to enforce the domestic regulations and ensure that drivers have taken the appropriate breaks between driving period and rest between daily driving. This is of particular concern when considering the PSV sector for obvious reasons.”*

**1.19** Respondents did not believe completing these records placed a great burden on drivers. One said:



*“Simply filling in a drivers’ hours book, should take no more than 5 minutes of the drivers day.”*

- 1.20** Of the three that thought these regulations should be removed, one gave the following reasons for their view:

*“As business is often intermingled with family life, it is difficult to determine when “on-duty” and “off-duty” are, in order to complete the prescribed forms. Many of our members will not intend to drive for more than four hours in a day and so may not record the start time on the weekly record sheet. Journeys completed which require recording may occur so intermittently that recording on a weekly sheet can often seem inappropriate, and even the small time spent filling in the form and signing and filing is disproportionate to any potential risk posed, and a burden on the business.”*

- 1.21** However, it should be kept in mind that revoking these regulations would not remove the requirement for drivers to keep a record of their driving, but just remove how these records should be kept; i.e. written records recorded on a specified record sheet. It was pointed out by one enforcement body that was in favour of removing this regulation that:

*“Removing this Regulation would not remove the requirement to make and keep records; operators are required to do this under the operator licence undertaking. Removing this Regulation would allow operators and drivers (in operations not subject to EU rules) freedom to keep records in a form that is appropriate to their business.”*

- 1.22** The Passenger and Goods Vehicles (Recording Equipment) Regulations 1989

- 1.23** We asked if there were any provisions in the above regulations, which are not covered by other legislation and should be retained. We had one respondent make the following comment:

- 1.24** *“Provided a defence for a person if they could prove to the court that they neither knew nor ought to have known that the recording equipment had not been installed or repaired. If this regulation is revoked then this amendment which protects drivers must remain.”*

- 1.25** We received no comments on the ‘Drivers’ Hours (Passenger and Goods Vehicles)(Exemption) Regulations 1996.

### **Summary of outcomes for proposal 3**

- 1.26** DfT have noted that most of the respondents were against revoking the ‘Drivers’ Hours (Goods Vehicles) (Keeping of Records) Regulations 1987’ because they felt these drivers should keep a record of their driving and revoking the regulation would remove the requirement to keep this record. However, DfT have decided to revoke them, as it would not remove the requirement to keep a record just remove how these records would be kept.

- 1.27** DfT have decided not to revoke the ‘Passenger and Goods Vehicles (Recording Equipment) Regulations 1989’ as these regulations made

amendments and additions to the Transport Act 1968, which we need to keep..

- 1.28** DfT have decided to revoke the ‘Drivers’ Hours (Passenger and Goods Vehicles)(Exemption) Regulations 1996.

## Proposal 4: Incentivising the use of goods vehicles using greener technologies through the operator licensing system

- 1.29** 12 respondents commented on Proposal 4. Of those: 4 (33%) agreed; and 8 (67%) disagreed.

- 1.30** Those who disagreed mainly did so for safety reasons; saying that as operator licensing enshrines a safety regime which is required to address the risks inherent when operating vehicles over 3.5 tonnes, exempting such vehicles could have safety risks. One respondent said:

*“Members expressed significant concerns about vehicles operating outside the operator licence regime for no reason other than the mechanism or fuel of their propulsion. The view was also expressed that the existing exemption from operator licensing for electric vehicles should also be reviewed on this basis.”*

- 1.31** One respondent also thought:

*“Gas powered vehicles have an ability to replace existing vehicles across the entire Commercial fleet and therefore the central function of the O licence should apply to them.”*

- 1.32** However, some of those respondents against encouraging the use of green vehicle technology through the operator licensing system had other suggestions on how DfT could encourage the use of green vehicle technology. This was mainly through direct financial incentives (or tax incentives) and grants etc, but there were also some other suggestions, highlighted below:

- Government supporting national refuelling infrastructure on the main motorway routes;
- Reviewing the Reduced Pollution Certificate to see whether it could be extended to smaller vehicles, and to ensure that it is available to all appropriate greener technologies.
- Incentivising the uptake of Euro VI vehicles could potentially be achieved through Reduce Pollution Certificates
- Supporting the development of a Europe-wide Euro V NOx retrofit standard. This is currently being developed at an EU level and may help to reduce emissions from older (pre-Euro VI) vehicles.
- exemption from the London Congestion Charge,
- Rather than exempt such vehicles why not introduced a reduced operator licence rate?

**1.33** Those who supported this proposal in principle thought that there should be a weight limit (mainly up to 7.5 tonnes). One respondent said:

*“Current alternative fuels vehicles are generally heavier than standard vehicles & with a typical overall payload only 900 kg’s, we cannot afford to lose any more payload within the 3.5tonne limit. The business case & pay-back for such a vehicle is still challenging. However if this vehicle type became more affordable, the exemption from O licensing would be vital.”*

**1.34** In addition, although one respondent was supportive of this proposal, they still had some concerns, saying:

*“Yes; in principle, but because of the weight implications of the technologies involved it is possible that, as a result of the need for an O-licence, operators keen to use the greener technologies will opt to focus their fleet on, and use, larger (7.5 tonnes) vehicles, where in practice the capacity of a 3.5 tonne vehicle may be adequate for many jobs. This could have an adverse impacts both emissions and energy use.”*

#### **Summary of outcomes for proposal 4**

**1.35** As the majority of respondents were not in favour of adopting this proposal as they felt it could compromise road safety and there was no real consensus of opinion, DfT have decided to keep this under review for the time being, but continue to explore other avenues for incentivising the use of greener technologies.