RESEARCH PAPER 08/68
31 July 2008

The Road Haulage Industry: costs & taxes

There is considerable discussion about the costs faced by the road haulage industry and the effect on those costs of Government policies. This paper collects together what information is available about fuel duty, road taxes and tolls in this country and across the European Union.

It also gives information on opposition parties' policies in these areas.

This updates Research Paper 99/42.

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ISSN 1368-8456

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Summary

This paper provides an overview of the main costs faced by the UK road haulage industry at present. It gives an overview of Government policy and, where applicable, the European context, in areas such as vehicle excise duty (VED), fuel duties, road user charges, labour costs and drivers' hours rules, cabotage, and lorry weights.

It follows the 2005 report by the Burns Inquiry into road freight taxes, undertaken on behalf of the haulage industry, and the Government's recent announcement that it would not proceed with a lorry road user charge. It also takes account of the policy announcements and other statements made by the Conservative and Liberal Democrat parties on these issues and the July 2008 report by the House of Commons Transport Select Committee into freight transport.

1 Background

1.1 The UK road haulage industry: brief profile

In 2006-07 there were just under 100,000 goods vehicle operators in Great Britain, their number has fallen by 18,000 (13%) since 2005-06. The average fleet size was 3.7 vehicles and has increased slightly over the past decade. 80% of operators had three or fewer goods vehicles, less than 1% had more than 50 vehicles.[1] According to the Freight Transport Association (FTA) the UK market for freight and distribution was £75.5 billion in 2005-06.[2]

In 2006 there were 439,000 heavy goods vehicles (HGV) registered in Great Britain. These vehicles moved 156 billion tonne kilometres of freight in 2006, 72% of which was moved by public hauliers (operators carrying goods for others).The amount of freight moved has increased by just under 75% since 1980, although the rate of increase has slowed in the last decade when the total increase was 6%. The fleet of GB-registered HGVs in 2006 was largely made up of rigid vehicles (73%), although the share of articulated lorries (27%) has increased over time, particularly those weighing over 33 tonnes. On average each GB-registered HGV travelled 53,000 kilometres in 2006, just over one-quarter of this distance was 'empty running' or unloaded.[3]

The Road Haulage Association (RHA) has estimated that as of October 2007 fuel was the largest single cost for a 38 tonne articulated lorry covering a typical mileage. This made up 31% of total costs, the other main components of cost were wages (26%), overheads (17%), depreciation/interest (13%) and repairs/maintenance and tyres (9%). Total operating costs (across all vehicles types) were estimated to have increased by 8.3% in 2007. Costs had increased by 117% since 1990 (35% above the RPI).

The UK road haulage industry has long campaigned for what it terms a 'level playing field' with its European counterparts. The industry argues that European hauliers are in a comparably more favourable position vis a vis their UK brethren, with cheaper fuel and lower taxes. Further, when UK hauliers operate in many European countries they must pay tolls or road charges, there is no reciprocal system for European hauliers operating in the UK.

Cost issues

Between 2000 and 2007 diesel prices increased by around one-third between October 2007 and June 2008, if mileage and fuel efficiency remained the same then this could increase the annual costs of operating a 38 tonne articulated lorry by around £10,000.[4] The largest percentage fall among different costs elements was in vehicle excise duty (VED) which was around 60% lower due to the halving of rates at the end of 2000. Vehicle insurance increased by the largest percentage (80%), but this forms a relatively small proportion of total costs. Fuel and wages increased by 27% and 46% respectively.[5]

Work for the FTA has compared the total operating costs in February 2008 for hauliers in the UK and those in 'competing' EU countries – those with the largest share of international activity in the UK. The latest figures shown that only the Netherlands has higher operating

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1 DfT, *Road freight statistics 2006*; Traffic Commissioners for Great Britain, *Traffic Commissioners' Annual Reports 2006–07*

2 FTA, *Delivering the economy 2008*

3 op cit., *Road freight statistics 2006*

4 Road Haulage Association/DFF International, *RHA Cost tables 2008*; BERR, *Quarterly energy prices*, Table 4.1.1

5 ibid., *RHA Cost tables 2008*

costs (+1% compared to the UK) while all others including Germany (-3%), Ireland (-7%), France (-8%) and Poland (-23%) have lower operating costs.[6] The results are broadly similar to those included in the 2005 Burns inquiry into freight taxes (see below) which looked at a different group of comparator countries and costs in April 2005. This calculated that costs for a 40 tonne articulated lorry were highest in the UK followed by Germany (-4% compared to the UK), Belgium (-7%), the Czech Republic (-18%), Hungary (-27%) and Bulgaria (-41%). The new EU Member States generally had lower employment and maintenance costs. When compared to Germany, the UK's higher fuel and VED costs outweighed its lower labour and social costs.[7]

These concerns come ever more sharply into focus in the context of the liberalised EU road haulage market. The recent agreement on cabotage[8] (see section 6 below) will mean that, for example, French hauliers could fill up their tanks in France, cross the Channel, make a delivery and then transport loads entirely within the UK's borders before returning to France. This poses a challenge to the future of the UK road haulage industry, one which the industry says the Government is failing to address.

The number of vehicles travelling from the UK to mainland Europe doubled between 1986 and 1996 and doubled again between 1996 and 2006 to reach 2.1 million. The majority of the increase in the past decade has been from foreign-registered vehicles. Their numbers more than trebled between 1996 and 2006 to reach 1.5 million (73% of the total). In 2005 cabotage haulage consisted of 1.1 million journeys and 1.9 billion tonne kilometres lifted. Market penetration of goods moved by cabotage was 1.2%.[9]

The Burns Inquiry

In 2005, following the Government's decision not to proceed with a lorry road user charge in the UK (see section 4 below), the RHA and the FTA set up the Burns Inquiry into freight taxes with the intention of determining the impact and cost to the UK economy and the road transport industry from the increasing number of foreign lorries operating on UK roads, and to clarify the competitive effect on UK operators of the "substantially higher rates of duty applied to diesel in the UK compared with the rest of Europe".[10] This reported in December 2005 and set out in some detail the industry's collected concerns. It concluded that there was "widespread pessimism across the road transport industry about the future and Government inertia towards unfair foreign competition" and recommended the following:

- foreign-operated trucks should cover their full UK costs through a vehicle charge or an equivalent mechanism
- UK operators should be rebated for this charge through fuel credits aligned to quarterly VAT returns
- VOSA enforcement resources should be extended and focused on drivers' hours and weight checks with transparency of data across Europe

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6 FTA press notice, "Comparative HGV operating costs across the EU", 14 May 2008

7 *The Burns Freight Taxes Inquiry*, 1 December 2005

8 'cabotage' means the operation of transport services within a Member State by a carrier established in another Member State

9 op cit., *Road freight statistics 2006*

10 *The Burns Freight Taxes Inquiry: terms of reference*, 8 August 2005; all documents associated with the inquiry available at: http://www.freight-taxes.co.uk/docs/index.jsp

- Automatic Number Plate Recognition (ANPR) and Weigh-In-Motion Mobile Sensors (WIMMS) technology should be applied more quickly and priority positioned on main port-entry trunk routes
- any new charging and fuel duty differentiation policy remedy (for the short and medium term) must exploit existing vehicle information systems as a holding position, prior to the introduction of full road user charging
- low cost, simplicity and speed of implementation are main criteria for a new (post LRUC) lorry charging policy remedy if ministers accept the need for fairer competition
- a rebate system to de-couple UK trucks from cars or a differential lorry-only diesel, progressively rolled out starting with 38t gvw, is the indicative policy
- beyond this evidence gathering stage, a technically qualified group should convert the policy direction identified by the inquiry into a worked-through proposal with involvement from Government
- a great deal of industry goodwill can be gained for modest net cost by charging foreign vehicles and relieving those affected by foreign competition in the UK
- Government must re-engage the industry with a measurable agenda.[11]

Environmental issues

Balanced against the concerns of the road haulage industry is the environmental argument that more freight in the UK should be transported by water and rail and that high costs for road haulage are a necessary corrective for the environmental damage it causes due to pollution and congestion. The Government has a broad policy of encouraging 'modal shift' in the carriage of goods, but there are questions about how effective this policy has actually been. In its July 2008 report on the freight industry, the House of Commons Transport Select Committee expressed its concerns about the ability of rail and water to compete with road haulage:

> Stern and Eddington both emphasise the importance of internalising the external costs of transport. That is, the wider costs of transport, such as congestion and pollution, should be paid for by those who cause them, rather than by society at large. The theory is that, by setting prices to reflect both the congestion and environmental costs of travel, the transport system will be used more efficiently, will support UK competitiveness, and will contribute to reduced emissions. The Government broadly supports this approach:
>
> > The fact that people pay at the point of use for each air, bus or rail trip they make, whilst use of the road is seen as a 'free good', has an impact on how they choose to travel. And [...] using pricing signals to improve the way that existing capacity is rationed offers a number of benefits [...]
>
> Professor McKinnon told us that the market alone would not achieve the necessary conditions to make the freight industry more environmentally sustainable and that Government intervention would be required. The Department is currently undertaking research designed to provide a better understanding of the freight transport sector's potential contribution to reductions in CO_2 emissions and the Minister outlined some of the initiatives of the Freight Best Practice programme that are designed to address

[11] op cit., *The Burns Freight Taxes Inquiry*, p8

> climate change issues. However, apart from aviation's inclusion in the EU Emissions Trading Scheme (see below), he was not able to point towards any specific initiatives by Government that are aimed at bringing about appropriate pricing for other modes of freight transport (…)
>
> Factors outside the direct control of the Government—fluctuations in the price of oil, for example—can push up the costs associated with transporting goods by particular modes and so influence the choices of operators. Mr King, of the Road Haulage Association, predicted the total collapse of his industry if the highest predicted oil prices were to be realised:
>
>> Yes, it would have a wonderful effect. It would open up our roads, eliminate congestion and I think we would all get around very well but we might be walking.
>
> While the Government has some scope to mitigate the effects of rising oil prices by reducing levels of tax on fuel, there is currently no explicit link between fuel taxes and the external costs of freight transport on which to base such a decision.
>
> Despite its support in principle for pricing regimes which capture the external costs of transport, the Government does not appear to be taking coherent steps to achieve them. **The Government should publish a strategy setting out its approach in relation to capturing the external costs of transport. It should also look to reduce transport's environmental cost by investing more in environmentally beneficial technologies across all modes.**[12]

64% of the total amount of freight moved in Great Britain in 2005 was carried by road. This rate has increased from 36% in 1953, but there has been little change over the last decade. The amount of freight moved by rail has increased in each year since 2002, but its share of domestic freight moved was only 8% in 2005, compared to over 40% in the early 1950s. [13]

1.2 Historical context

In January 1973 the then Minister for Transport Industries in the Heath Government, John Peyton, asked the chairman of what was then the National Freight Corporation, Sir Dan Pettit, to put together a group to look at ways in which the haulage industry and its users affected and were affected by environmental issues. Chapter 3 of Pettit's report, published later that year, gave an overview of the haulage industry in the context of post-war society. It stated that, in the early 1950s, the UK freight transport industry differed little in organisation, technology, channels of distribution, or in its concept of its own role, from what it did 20 years before. Specifically:

- Manufacturing industry dominated the market place, dictating traffic demand, flow and price;
- In a world of shortages transport costs were broadly secondary to effective delivery and coverage;
- The chain of distribution and supply was comparatively straightforward;
- The railways dominated the UK freight scene;

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12 Transport Committee, *Freight Transport* (eighth report of session 2007-08), HC 249, 19 July 2008, paras 35-36 & 38-41 [emphasis in original]

13 DfT, *Transport statistics Great Britain 2007*

- Marketing and the techniques of mass communication were relatively unsophisticated;
- Major social changes, based on, amongst other things, the motor car, had not yet begun to take effect;
- It was a period of comparatively cheap money, labour was inexpensive and labour-intensive services such as transport could be provided reasonably cheaply; and
- Land use in transport terms was associated with the railway as the means of personal mobility and commodity freight movement.[14]

Pettit went on to outline the "far reaching and dramatic" changes which had taken place since the 1950s, in particular the development of the lorry as "an effective form of transport and distribution in modern society":

> With its short-term approach to fixed investment, its limited but intimate commitment to the 'unit' of the lorry, its door-to-door convenience and flexibility which minimise handling costs and reduce dependence on costly transhipment operations, its speedy obsolescence giving adaptability to changing markets and volatile demand, the personal commitment it can offer, it is so closely attuned to customer needs that it accounts for 85% of all freight tonnage movement and some 63% of all ton miles … This emphasised the fact that in this densely populated island, transport and distribution today must be regarded, by any criteria, as local and not long distance. Here is a field in which road transport is particularly responsive … In such a world, however as sympathetically as users we press their case, we return to the fact that railways cannot generally compete with road as an alternative, rival service for the favours of industry and commerce. Their potential appears to grow more limited as society becomes more affluent, range of choice more complex, and urbanisation extends.[15]

Five years later, the Callaghan Government asked the Price Commission[16] to look into the costs incurred by the road haulage industry. The Commission's report, published in October 1978, examined the industry in the context of the steep oil price rises of the 1970s. At the time, the industry was fragmented into a large number of sub-markets, varying widely in size and characteristics, some of which were competitively restricted. The costs to the industry at the time were characterised in the following way:

> Mobile labour costs (effectively drivers' wages and subsistence allowances) remain the largest single element of direct costs;
>
> The cost of fuel and oil has grown faster than other main elements of cost;
>
> The operators of 101+ vehicles have been particularly successful in containing the increased in repair and maintenance costs;

[14] *Lorries and the world we live in: a report to the Rt. Hon. John Peyton MP*, HMSO, 1973, pp10-11
[15] ibid., pp13-14
[16] set up under the *Counter Inflation Act 1973* to implement price controls, as part of the Labour Government's broader counter inflation policy

> The small movement in the depreciation costs of the larger companies mainly reflects reduced investment in new vehicles, including the shift from outright purchasing to leasing.[17]

Of particular concern at the time was the rising cost of fuel and oil. On this issue the Commission stated:

> Most modern road haulage vehicles now operate on diesel fuel (derv). The price of derv has increased dramatically in recent years with a consequent direct impact on running costs. By January 1978 the retail pump price of derv (approximately 84.5p per gallon) stood at 145 per cent above the 1973 level. Companies buying derv in bulk are able to obtain their fuel significantly more cheaply ('savings' on retail pump price are typically in the range of 17 to 20 per cent) but have still had to face similar price rises in percentage terms (…) some hauliers are now making provision in their contracts for automatic increases in rates to allow for changes in fuel costs due to Government action.[18]

In July 1979 the Minister of Transport in the new Conservative Government, Norman Fowler, asked Sir Arthur Armitage to conduct an inquiry into the impact of lorries on the environment.[19] The Armitage Report was published in December 1980 and, *inter alia*, it looked at the causes of growth of road haulage against other forms of freight transport. It made a similar case to Sir Dan Pettit's 1973 report, emphasising the importance of technology, energy, entrepreneurship and capital, regulation and control, and demand to the success of the dominant form of freight transportation (in this case, road haulage). It also stated that it was a mistake to use shorthand phrases like 'the age of the canal' as these "do not tell the whole story since they disguise the fact that most predominant forms of freight transport not only remain in competition with other forms but can also be complemented by them for parts of particular hauls".[20]

As to the costs to the industry, the Report stated:

> There has been some externalisation of the costs of some categories of lorries because the Government has failed to recover from them in taxation all the costs they impose on the road system. The tendency has been to under tax the heaviest lorries, at the expense of lighter lorries and at the expense of rail for the freight for which rail is competing with the heaviest lorries and for which price is important.[21]

It went on:

> The principles and detailed application of [the] system of taxing road users [i.e. via vehicles excise duty and fuel tax] have been the subject of much debate. This is not surprising. This system of taxation is unlike most others in that it is linked to the costs imposed by those who are taxed. Thus the taxation of lorries is more like a charge than a tax. We have no doubt that the reasons are largely historical, and go back to the old idea of the Road Fund. Indeed, the road haulage industry, in demanding that lorries should pay their road track costs but no more than their road track costs, are in effect asking for the re-establishment of an hypothecated Road Fund. The allocation of responsibility for road track costs inevitable is to some extent arbitrary, or at least subjective, and the averaging of the costs of classes of lorries can conceal wide

[17] Price Commission, *The road haulage industry*, HMSO 698, October 1978, p91
[18] ibid., pp91-92
[19] Department of Transport press notice, "Sir Arthur Armitage to carry out lorries inquiry" (PN 204), 24 July 1979
[20] *Report of the inquiry into lorries, people and the environment*, HMSO, December 1980, p11
[21] ibid., p16

> discrepancies between that average and the costs which ideally might be allocated to an individual lorry. The costs which road users impose are equated to expenditure on the roads. The *reductio ad absurdum* of this would be that if we did no road maintenance the costs which vehicles impose would appear to fall, though in practice the physical damage which they do would be greater because no maintenance had been done. In practice, the assumption that costs and expenditure are the same would be justified only if the physical condition of the roads were kept constant. Despite the anomalies and difficulties we believe the cost allocation system to be the most practical and satisfactory way of handling these costs.[22]

1.3 The European framework

In the 1950s the six original European Economic Community (EEC) Members considered creating a European Transport Community based on the model of the European Coal and Steel Community. Instead a common transport policy became one of the core policies of the newly established 'Common Market'. Article 3(f) of the *Treaty Establishing the European Communities* (TEC) on the activities of the Community states that they shall include "a common policy in the sphere of transport". Detailed provisions are set out in Title V TEC, Articles 70-80, and Title XV on Trans-European Networks, Articles 154-156. Market access to land transport is governed by Article 71 while liberalisation is required under Article 75.[23]

The adoption of the common transport policy was initially very slow and in 1982 the European Parliament (EP) took the European Council (EC) to the European Court of Justice (ECJ) for its failure to act in adopting the common policy. Following the ECJ ruling in 1985[24] there was more progress, and in recent years the pace of action in this area has been rapid.

At the EC Transport Council in June 1988, it was finally agreed that as from 1 January 1993, for Community hauliers, access to the EC international market would be governed by a system of Community Authorisations issued on the basis of qualitative criteria alone. Regulation 881/92/EEC of 26 March 1992[25] consolidated the existing legislation on international transport between Member States and laid down definitive arrangements on market access. Rules on cabotage (i.e. the operation of transport services within a Member State by a carrier established in another Member State) were laid down separately in Council Regulation 3118/93/EEC of 25 October 1993[26] (for more information, see section 6, below).

The EU later legislated for standardised infrastructure charging for road haulage, more commonly known as road user charging or, in Europe, the 'eurovignette'. Directive 99/62/EC of 17 June 1999[27] on the charging of heavy goods vehicles for the use of certain infrastructures laid down provisions on tolls and charges for the use of motorways and multi-lane roads, bridges, tunnels and mountain passes, with minimum and maximum rates. The 1999 Directive came into force on 1 July 2000 and was subsequently amended by Directive 2006/38/EC.[28] The aims of the 1999 Directive were to reduce the differences in the levels and in the systems of tolls and user charges applicable within Member States; to provide for greater differentiation of tolls and charges in line with costs associated with the road use; and

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22 ibid., p53

23 OJC 321, 29 December 2006: http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/ce321/ce32120061229en00010331.pdf

24 Case 13/83: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61983J0013:EN:HTML

25 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31992R0881:EN:HTML

26 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31993R3118:EN:HTML

27 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1999:187:0042:0050:EN:PDF

28 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:157:0008:0023:EN:PDF

to further move towards the principle of territoriality.[29] The Directive also lay down certain rules to be followed by Member States should they wish to retain or introduce tolls and/or user charges. It also fixed a maximum level for user charges in accordance with the given period and the environmental performance of the vehicle and limited the daily charge (for more information, see section 4, below).

The industry must also abide by working time and drivers' hours rules which apply across the whole of the EU. Drivers of most large goods vehicles over 3.5 tonnes and of passenger vehicles with more than nine seats are subject to EU Regulation 561/2006/EC[30] on drivers' hours, which replaced the long-standing Regulation 3820/85/EEC[31] from April 2007. Those drivers exempt from the EU rules are subject to UK national rules set out in the *Transport Act 1968*.[32] There are separate working time rules for 'mobile workers' in the road transport sector under Directive 2002/15/EC[33] (for more information, see section 5, below).

The EU has also legislated on harmonised technical standards, including the maximum allowable weight of vehicles (for more information, see section 7, below).

2 Vehicle Excise Duty (VED)

2.1 Government policy

Motoring taxation is made up of two elements, vehicle excise duty (VED), which can be considered a tax on ownership, and fuel duty, which is a tax on use. VED was first introduced for four-wheeled motor vehicles on 1 January 1889 by the *Customs and Inland Revenue Act 1888*. Although historically the Road Fund tax was considered a hypothecated tax to pay for the building and maintenance of the road network, this has not been so since 1937 and it is now a general revenue raising tax. Changes to the rates and coverage of the duty are made in the *Finance Acts*. Under the 1949 Geneva Convention, which was superseded by the Vienna Convention of 1968, if a vehicle is licensed and taxed in its own country it is entitled to operate abroad.

As mentioned above, in December 1980 the Armitage Report was published. Amongst its recommendations to the Government was that VED on the heaviest lorries should be increased "at the earliest opportunity" in order to ensure that they paid the full cost for the environmental damage they caused.[34] The findings of the report complemented the thrust of the Government's August 1979 consultation paper on reform of VED for heavy vehicles.[35] The *Transport Act 1981* contained paving measures for the introduction of a new VED structure for lorries, to shift the burden of taxation from lighter to heavier vehicles. It was announced in the March 1982 Budget that the upcoming *Finance Bill* would contain details of the proposed restructuring.[36] The intention of the reform was as follows:

> The general approach used to frame the October tax rates has been to set these around the average amount of duty paid by vehicles of similar gross weight. So the effect on any individual operator will depend on whether he has a vehicle with a low or high unladen weight compared with the average in the same gross weight tax

29 'territoriality' in this case means the ability of States to enforce financial sanctions on foreign nationals
30 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:102:0001:0013:EN:PDF
31 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31985R3820:EN:HTML
32 these include drivers of small goods vehicles
33 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0266:FIN:EN:HTML
34 op cit., *Report of the inquiry into lorries, people and the environment*, p153
35 Department of Transport, *Vehicle excise duty on heavy goods vehicles*, August 1979
36 HM Treasury, *Financial Statement and Budget Report 1982-83*, 237, March 1982, p8

> category. Most operators will in fact find that the October rates are within 20 per cent or so of the post-Budget rate for their vehicles.[37]

The new system, taking effect in October 1982, applied to goods vehicles weighing more than 1.525 tonnes, unladen; commercial vehicles under that weight would be taxed at the same rate as cars. Goods vehicles over 1.525 tonnes would be taxed according to their plated gross weights (or train weight in the case of articulated lorries) and, for lorries over 12 tonnes gross weight, the number of axles. There would be three categories: vehicles weighing between 1.525 tonnes and 7.5 tonnes; those weighing between 7.5 tonnes and 12 tonnes; and those over 12 tonnes (separated into rigid and articulated vehicles).[38] Within those categories there was a further variation of duty rate by weight. Changes were later made to the VED categories for lorries and the amount of VED paid also increased. There were various attempts at simplification of vehicles categories following the *Finance Act 1993*, and the *Vehicle Excise and Registration Act 1994* (VERA) consolidated the disparate parts of legislation.

The first transport White Paper of the new Labour Government, *A new deal for transport: better for everyone,* published in July 1998,stated:

> The Chancellor has already announced that he will review the system for setting VED rates for lorries to ensure that the environmental damage they cause is reflected in their VED rates. This review will take into account the wider environmental impacts of lorries as well as their physical effects on the road infrastructure.[39]

In Budget 1998 the then Chancellor, Gordon Brown, announced a freeze on the VED rate for lorries until the new graduated VED had been devised and also a reduced VED rate of up to £500 from 1 January 1999 for lorries and meeting low emission standards.[40] Budget 1999 continued the freeze on most lorry VED rates and doubled, to £1,000, the maximum discount for low emission lorries.[41] In the November 2000 *Pre-Budget Report* the Chancellor announced that a reformed system of VED would be introduced in Budget 2001 to reflect the costs of the environmental and track damage done by lorries:

> The Government announced in Budget 98 that it would reform VED for lorries. It commissioned a report from independent experts on the environmental and track damage caused by lorries, that was published in April 2000. It can now announce that it will introduce a reformed system of lorry VED in Budget 2001, subject to consultation on the details of the reform, to reflect better the environmental and track costs of different lorries. The reform is intended to reduce by approximately £300 million a year (equivalent to over 50 per cent) the cost of VED on lorries for British industry. The reduction in VED itself is in accordance with the Government's principle of shifting taxes away from vehicle ownership. The new scheme will continue to reward lorries

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37 DoT press notice, “New basis of lorry taxation: 1982 Finance Bill” (PN 102), 26 March 1982

38 ibid.

39 DETR, *A new deal for transport: better for everyone,* Cm 3950, July 1998, para 4.126: http://www.dft.gov.uk/about/strategy/whitepapers/previous/anewdealfortransportbetterfo5695

40 HMT, *Budget 1998*, HC 620, March 1998, para 5.52: http://www.hm-treasury.gov.uk/budget/budget_1998/budget1998_budget_report/bud98_fairsoc_chap5.cfm; the reduced rate was introduced in section 10 and Schedule 1 of the *Finance Act 1998*

41 HC Deb 9 March 1999, c181

> meeting lower emissions and the Government will consider using new Euro emissions standards in the future. It will also be a simpler, more flexible system.[42]

The new system came into force on 1 December 2001, replacing the previous structure of more than 100 tax rates with a system of seven broad tax bands. A press notice from the Department for Transport, Local Government and the Regions (DTLR) stated:

> The new system of Vehicle Excise Duty for goods vehicles … replaces the existing structure of more than 100 tax rates with a system of seven broad tax bands, reflecting the environmental impact of vehicles as well as the road wear they cause. The new VED rates are among the lowest in Europe for some of the cleanest and least damaging lorries.
>
> The new system aims to be simpler and more flexible than its predecessor, allowing hauliers more choice and the possibility of cost savings in the way they operate their vehicles. It will also enable 80 per cent of re-licensing to take place at Post Offices.
>
> Transport Minister David Jamieson said: "I warmly welcome the introduction of this new structure of tax rates. As well as consolidating the reductions in VED announced last Autumn, it provides a simple and more transparent tax structure that better recognises the operational needs of hauliers."
>
> The Financial Secretary to the Treasury, Paul Boateng, added: "The new system will lead to the majority of lorry drivers paying even lower rates of VED, building on the reduced rates announced last year. For example, the main lorry used in international haulage work the 40 tonne lorry on 5 axles - will pay £1100 less VED a year as a result of these reforms. As well as making the industry more competitive the new system will be better at protecting the environment." [43]

It was announced in the *Pre-Budget Report 2007*, and confirmed in *Budget 2008*, that VED for lorries would be frozen for 2008-09.

2.2 Cost of VED

Current VED rates of heavy goods vehicles vary from £165 to £1,850 per year for 'standard' emissions and £160-£1,350 per year for vehicles which meet the reduced pollution standards.[44] In the 2000 *Pre-Budget Report* the Government announced that it would cut the overall amount it collected in VED on lorries by just over half, or around £300 million. A number of other reforms were made at the time including a reduction in the number of different rates. Immediately before these changes an international standard 40 tonne 5-axle lorry would have had a VED rate of £3,950 a year[45] (it had been £5,750 before Budget 2000), afterwards it was £1,850.[46] These rates have since been frozen. According to RHA figures the result is that between September 1989 and October 2007 VED costs fell by around 58%.[47]

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[42] HMT, *Pre-budget Report 2000*, November 2000, para 6.67: http://www.hm-treasury.gov.uk/pre_budget_report/pre_budget_report_2000/pbr_report/prebud_pbr00_rep06.cfm; this was accompanied by a consultation document, see: HMT, *Consultation on reform of vehicle excise duty for lorries*, November 2000: http://www.hm-treasury.gov.uk/media/4/5/ACF44A.pdf

[43] DTLR press notice, "New VED rates for goods vehicles starts on December 1", 30 November 2001

[44] DVLA, *Rates of Vehicle Excise Duty form v149*

[45] on the 'standard' emissions tarrif

[46] op cit., *Consultation on reform of vehicle excise duty for lorries*

[47] Road Haulage Association/DFF International, *RHA Cost tables 2008*

2.3 Views of the industry and opposition parties

As stated above (see section 1.1), in December 2005 the Burns Inquiry reported on behalf of the road freight industry. On the rate of VED paid by UK hauliers, it said:

> All operators must pay vehicle excise duty on vehicles registered in the EU. There are minimum levels of VED which are set in the Eurovignette Directive 1999/62/EC. However, national governments can set their own rates, providing these do not fall below the EU minimum.
>
> Throughout the 1990s the UK suffered from VED rates far exceeding the EU minimum and well above those set elsewhere in Europe. From January 1999, 5-axle, 40 tonne artics and drawbar combinations were permitted to operate in the UK, but taxed at a punitive rate of £5750, supposedly to reflect their higher level of road wear. Unfortunately, this class of vehicle is also the most affected by direct competition from foreign trucks. As a result some UK operators began a process of 'flagging out', or moving vehicles abroad. They moved operating centres for some or all of their fleet to neighbouring countries, in order to take advantage of lower VED rates.
>
> The Chancellor announced in 2000 that UK lorry VED rates would be halved. In addition UK lorry VED was simplified from over 50 bands to seven and UK rates came down from of the top of the EU taxation league. However, UK lorry VED rates for a 40 tonne vehicle are still second in the EU taxation league.[48]

In 2007 many of the Conservative Party's policy groups, set up after David Cameron became Party leader, reported. Two in particular, the Quality of Life and the Economic Competitiveness reports, looked at transport.

[48] op cit., *The Burns Freight Taxes Inquiry*, p22

The Quality of Life group's report proposed reworking the vehicle tax system, with the objective of better targeting taxes to help the environment. It stated that VED is poorly targeted and ineffective and proposed replacing it with a purchase tax.[49] There was no specific mention of lorry VED, however.

The Economic Competitiveness group's report proposed the introduction of a lorry road user charge, balanced by a reduction in either the duty on diesel or VED for UK hauliers (see section 4, below). None of these measures have yet been adopted as official Conservative Party policy.

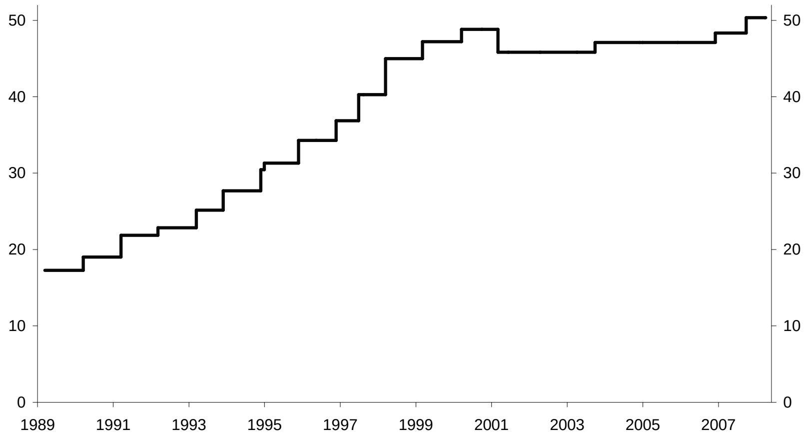
In a June 2008 policy paper on the environment and transport, the Liberal Democrats stated that the Party would "increase the graduation of road tax on lorries and trailers to give a real incentive to use smaller and more fuel efficient vehicles. We would also change the basis on which this tax is calculated – bringing emissions as well as weight into the equation".[50]

3 Fuel duty and prices

3.1 Duty

The current duty on diesel is 50.35 pence per litre. The chart opposite illustrates changes in the duty rate for the main grade of diesel (currently 'sulphur free' diesel) since the late 1980s. The impact of the fuel duty escalator from 1993 to 2000 is very clear. Diesel duty increased from 22.85 pence per litre in early 1993 to 48.82 pence per litre from the end of March 2000.

Diesel duty rates, pence per litre

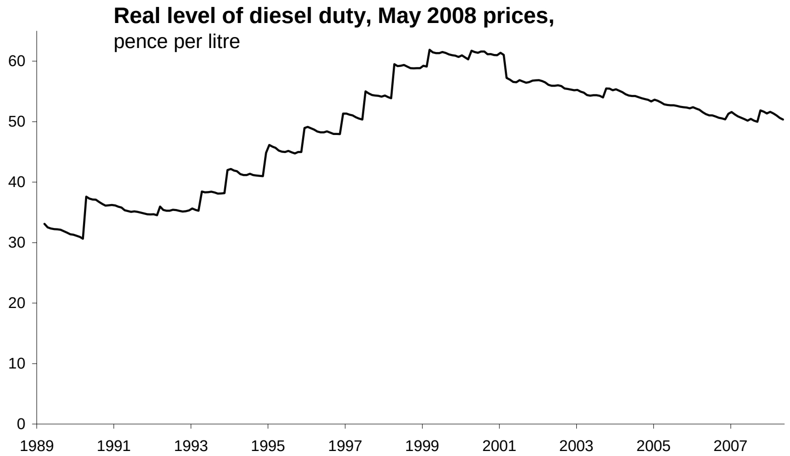


Source: Hydrocarbon oils bulletin, HMRC

[49] *Blueprint for a Green Economy*, September 2007, pp343-344: http://www.conservatives.com/pdf/BluePrintforGreenEconomy.pdf [emphasis in original]; none of these recommendations has as yet been adopted as official Conservative Party policy

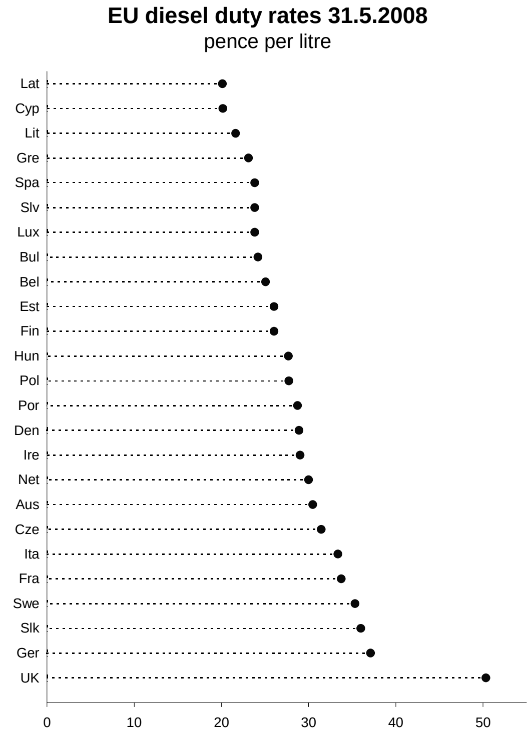
[50] *Fast track Britain: building a transport system for the 21st century* (policy paper 85), June 2008, para 5.1.3: http://www.libdems.org.uk/media/documents/policies/FasttrackBritain.pdf

The escalator was abolished after the September 2000 fuel protests, duty was cut by 3 pence per litre in early 2001 and since then rates have been frozen or increased in line with inflation. The chart opposite looks at duty levels in real terms[51] and shows the above inflation rises when the escalator was in operation and the general fall in real duty levels since 2001. Diesel duty increased by 75% in real terms while the escalator was in operation and has fallen by around 18% since then. Current rates are still around 40% above pre-escalator levels in real terms.



Sources: Hydrocarbon oils bulletin, HMRC; ONS series CHAW

The UK's current level of diesel duty is the highest in the EU and has been so for more than a decade. The chart opposite illustrates the latest position. UK rates were 13 pence per litre above the next highest (Germany) and 23 pence per litre, or 85%, above the simple average from across the other EU states.



Source: EU Oil Bulletin

In January 1994, after the first of the escalator increases, diesel duty rates in the UK were already the highest in the EU12, but were only 1 pence per litre above the next highest rate and 6 pence per litre, or 28%, above the average seen across the other member states. After the March 2000 increase diesel duty in the UK was 25 pence per litre above the next highest level and 30 pence per litre, or 155%, above the average across the other 14 EU members.[52]

The UK's duty rate increased much faster than elsewhere in the EU during the 1990s. The subsequent near freezing of the rate in cash terms has seen other Member States catch up to some degree. The EU has expanded over this time and many of the States that joined in or after 2004 have lower duty rates. Between January 1994 and March 2000 the duty rate increased by 76% in the UK, but fell by 11% (when expressed in sterling) across the other EU12 members. Between March 2000 and May 2008 duty increased by 3% in the UK and 53% across the other EU15 members.[53] It should be noted that as duty rates are converted into a common currency they can be affected by exchange rates. The pound was relatively strong over the second half of the 1990s and this will have magnified the divergence of duty rates. The euro has been particularly strong against the pound over the last year and this will have made Eurozone duty levels look more expensive when expressed in sterling.

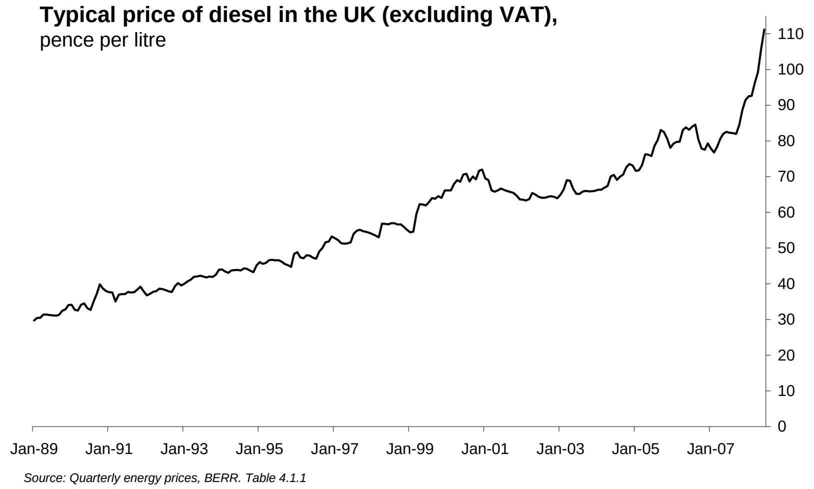
51 adjusted using the all-items RPI

52 EC Directorate-General for Energy and Transport, *EU Oil Bulletin*

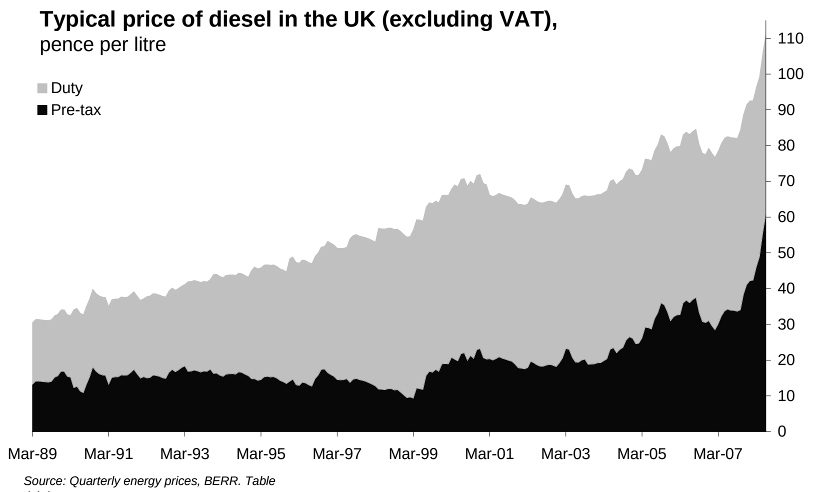
53 ibid.

3.2 Prices

Duty rates form a major part of the price of fuel in the UK, but the pre-tax price and hence oil prices and refinery mark ups are responsible for day-to-day changes in prices and have become increasingly important in the past few years. Hauliers can reclaim VAT so the chart opposite looks at trends in diesel prices excluding VAT. Fluctuations in oil prices leads to much variability in fuel prices, but the increases in prices from 1989 to early 2005 are remarkable for their consistency –around 2.5 pence per litre per year. The only time during this period where prices diverged from this for more than a few months was from spring 1999 to the end of 2000. Diesel prices increased more rapidly in the second half of 2005 and during much of 2006, but by early 2007 they had returned to a level close to the long term trend. The period since autumn 2007 has seen the fastest and most consistent rise in prices. There have been new record highs in each month since September 2007 and (pre-VAT) prices have increased at an average 3.3 pence a litre per month.[54]



The chart opposite splits the price into duty and pre-tax. Over the first half of the period the increase in prices was down to duty levels as the falling oil prices caused the pre-tax price to drop. The reverse was true in the second half. Duty rates have changed very little and the underlying variations reflect changes in the pre-tax price. Rising oil prices are largely responsible for variations in pre-tax prices in the past few years, although in recent months the increased demand for diesel in Europe and Asia (which itself increases demand for oil) combined with an inability to increase supply in the short to medium term has increased the refinery 'mark up'[55] on diesel.



The prices given above are based on the typical retail price of diesel less VAT. The bulk price of diesel, paid by many hauliers, will be less than this. Data produced by the RHA suggests that average bulk prices at the end of June were around 4 pence per litre below

54 op cit., *Quarterly energy prices*, Table 4.1.1

55 this is the not the refinery's profit margin but difference between the price of a barrel of refined product and that of crude oil –'cracks to benchmark crude'; diesel cracks in North West Europe have hit a number of new record levels in 2008 and their average May level added around 12 pence per litre over and above the underlying cost of crude (International Energy Agency, *Oil Market Report June 2008*)

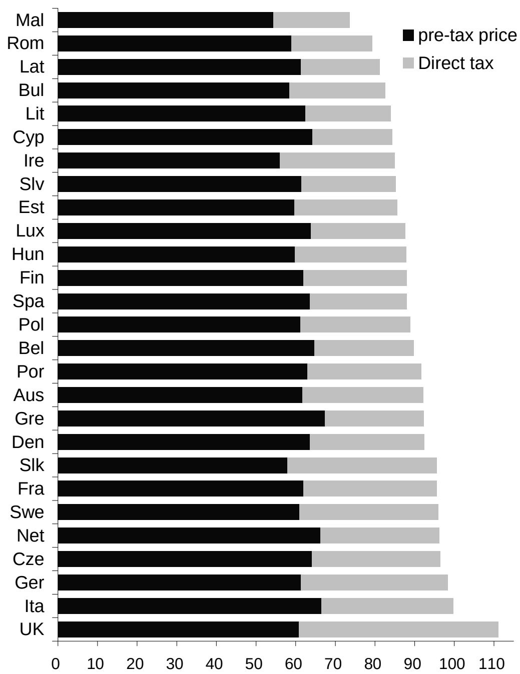
retail (if VAT is excluded).[56] However, the trends in bulk prices will be very similar to those shown above.

The increase in the pre-tax price of diesel has seen duty fall as a percentage of the pump price. In mid-June it stood at 45%. It peaked at 83% in February 1999 when oil prices were especially low.[57]

Diesel prices in the UK are the highest in the EU and this is due to the UK's duty rates, as illustrated opposite. In mid-June the pre-VAT price in the UK was 11 pence per litre above that in the next most expensive country and 22 pence per litre (25%) above the average across all other member states. The differences in pence per litre are smaller than for duty alone as pre-tax prices in the UK are below average. Again the gap has fallen since 2000 when the UK's retail price before VAT was 31 pence per litre (82%) above the average of the other Member States.[58]

EU diesel pump prices (excluding VAT)

16 June 2008, pence per litre



Source: EU Oil Bulletin

3.3 Government policy on fuel duties

In Budget 2008 the Government confirmed that its approach to taxing road fuel is that "fuel duty rates should rise each year at least in line with inflation as the UK seeks to reduce polluting emissions and fund public services".[59] This is in contrast to the use of a 'fuel duty escalator' from 1997 to 2000, and the period up to 2007 where duty rates were often frozen, or increased in line with inflation only.

It was the Conservative Government which had introduced a 'road fuel escalator' - a commitment to increase duty rates on these fuels in real terms by a specified percentage each year - in the March 1993 Budget. Initially the escalator was set at 3% then increased to 5% in the November 1993 Budget. Under the new Labour Government, the then Chancellor, Gordon Brown, announced a further 1 percentage point increase in the escalator in his July 1997 Budget.[60] Duty rates on the main categories of road fuel were increased over the next three years as follows:

56 *RHA Average National Bulk Price Survey*: http://www.rha.net/
57 op cit., *Quarterly energy prices*, Table 4.1.1
58 op cit., *EU Oil Bulletin*
59 HMT, *Budget 2008*, HC 388, March 2008, para 6.30: http://www.hm-treasury.gov.uk/media/4/7/bud08_chapter6.pdf
60 HMT, *Budget 1997*, HC 85, July 1997, p37

- between 8.2% and 9.3% from 1 July 1997[61]
- between 9.2% and 11.8% from 17 March 1998[62]
- between 7.3% and 11.6% from 9 March 1999.[63]

Over this period total receipts from excise duties on oils rose from £17.2 billion in 1996-97 to £22.5 billion in 1999-2000.[64]

Complaints from private motorists and hauliers about the tax burden on road fuels led to the announcement in Budget 2000 that the escalator would be withdrawn, and that any real-terms rises in road fuel duties would be "an annual Budget decision".[65] In addition duty rates were increased only in line with inflation. The rising trend in pump prices led to a public campaign during summer 2000 for drivers to boycott selective petrol stations. Panic buying and blockades of refineries caused widespread shortages across the country by mid-September. In his Pre-Budget statement in November 2000, the Chancellor proposed that the main duty rates would be frozen up to April 2002, and the rates on ultra low sulphur petrol and ultra low sulphur diesel would be cut in the March 2001 Budget – by 2 pence and 3 pence a litre respectively – changes he confirmed in his 2001 Budget.[66] Although these low sulphur alternatives were relatively new to the market at this time, they are now the main categories of fuel used on the road.

Since then, the general pattern has been for the main duty rates on road fuels either to be frozen or to be increased in line with inflation only.

In Budget 2003 the Chancellor announced an increase in duty rates in line with inflation;[67] the increase was delayed until 1 October 2003 to take account of the then "recent high and volatile level of oil prices as a result of military conflict in Iraq".[68] Concern at high and volatile oil prices resulted in the main duty rates being frozen in 2004 and 2005.[69] In the 2006 Budget the Chancellor proposed that duty rates would rise in line with inflation from 1 September 2006;[70] in the event, this increase was postponed for three months, taking effect on 6 December.[71] In the 2007 Budget the Government announced duty rates for the next three years:

> It is the Government's policy that fuel duty rates should rise each year at least in line with inflation as the UK seeks to reduce polluting emissions and fund public services. Budget 2007 sets out fuel duty rates for the next three years. Main fuel duty rates for 2007-8 will increase by 2 pence per litre (ppl), with these changes in rates deferred

61 HM Customs & Excise Budget Notice C&E3, 2 July 1997
62 HM Customs & Excise Budget Notice C&E17, 17 March 1998
63 HM Customs & Excise Budget Notice C&E11, 9 March 1999
64 HM Customs & Excise, *Hydrocarbon Oils Factsheet*, February 2004, p1
65 HC Deb 21 March 2000, c868
66 HC Deb 7 March 2001, c303
67 HM Customs & Excise Budget Notice CE31, 9 April 2003
68 HMT, *Budget 2003*, HC 500, April 2003, p159: http://www.hm-treasury.gov.uk/budget/bud_bud03/budget_report/bud_bud03_repindex.cfm
69 in both years, the Government had first proposed in the Budget that duty rates would rise in line with inflation in September, but then reversed this decision (see: Cm 6408, December 2004, para 7.32; and Cm 6701, December 2005, paras 7.47-8)
70 HC Deb 22 March 2006, c295; provision to this effect was made by section 7 of the *Finance Act 2006*
71 HC Deb 19 July 2006, cc521-2W; HC Deb 6 December 2006, c310; HM Revenue & Customs, *Pre-Budget Report note PBRN20*, 6 December 2006.

> until 1 October 2007. Main fuel duty rates will then rise by 2ppl on 1 April 2008 and 1.84ppl on 1 April 2009. By 2009-10, main fuel duty rates will still remain 11 per cent lower in real terms than they were in 1999.[72]

When this provision was scrutinised at the Committee stage of the *Finance Bill*, the then Financial Secretary, John Healey, said a little about the Government's approach: "It is the Government's policy that, in general, fuel duty rates should rise each year at least in line with inflation, and Budget 2007 set out fuel duty rates for the next three years, first for environmental reasons; secondly, to ensure funding for public services; and thirdly to provide greater certainty, alongside other tax reforms that were in the Budget. Increases in 2008 and 2009 will be provided for in subsequent Finance Bills". He went on to note that it was expected that this would result in relatively small increases in duty rates in real terms:

> We discussed this morning the basis of the Government's forecasting in tax terms, and that element of the Red Book is the quarter three RPI figure for this year, which is 3.38 per cent. So the rises of 2p per litre this year, 2p per litre next year and 1.84p per litre the year after represent respective increases of just over 4 per cent., just under 4 per cent., and about 3.5 per cent … [so] we are … looking at three years of fuel duty rises that have a real rise element to them. We have been clear from the start that the resources that these will help to raise will help contribute to the Government's spending on our priority areas, such as transport and environmental protection.[73]

The decision to delay the increase in fuel duty until 1 October 2007 was estimated to cost the Exchequer £380 million in 2007-08. The projected yield of the proposed duty increases in future years was estimated to be £490 million in 2008-09, rising to £660 million in 2009-10.[74] To put these figures in context it is worth noting that duties on all fuels are projected to raise £24.9 billion in 2007-08.[75]

In the 2008 Budget the Government confirmed that duty rates would rise by 2p per litre, but that this would be postponed for six months:

> Budget 2008 … confirms that main road fuel duty rates will rise by 1.84 pence per litre on 1 April 2009, and announces that rates will then also increase by 0.5 pence per litre above indexation on 1 April 2010. By 2010-11, main fuel duty rates will remain at least 11 per cent lower in real terms than they were in 1999. Consistent with the Government's overall stance of ensuring stability for the long-term, while maintaining responsiveness to short-term conditions, Budget 2008 also announces that the planned fuel duty increase of 2 pence per litre in April 2008 will now take place on 1 October 2008. The Government can also confirm that rebated oils duty increases will also be deferred until 1 October 2008, when they will rise in proportion to main road fuel duties. These rates will also rise by the same proportion as main road fuel duties in the subsequent two years.[76]

The cost of deferring the duty rate increase is estimated to be £550 million in 2008-09.[77] The announcement appears to have been welcomed by both hauliers and motorists.[78] The Government confirmed, in July 2008, that the October rise would be further postponed.[79]

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72 HMT, *Budget 2007*, HC 342, March 2007, paras 7.36, 5.134: http://www.hm-treasury.gov.uk/budget/budget_07/report/bud_budget07_repindex.cfm
73 PBC Deb 10 May 2007, c91, cc93-4
74 op cit., *Budget 2007*, p209
75 op cit., *Budget 2008*, p187
76 ibid., para 6.30
77 ibid., p110

The continued rise in crude oil prices since the Budget has lead to calls for the Government to take further action to reduce pump prices, on the grounds that rising oil prices have provided a windfall in terms of Exchequer receipts, from tax on road fuels and well as taxes on North Sea oil production. In mid-May the British Chambers of Commerce published estimates that this 'windfall' was worth £505m since the start of the tax year.[80] However, the Institute for Fiscal Studies have argued that this type of analysis ignores the wider impact of oil prices on the economy. The *Financial Times* quoted Stuart Adam, senior economist at the IFS, as saying, "broadly speaking, it all goes through the wash and in the end, it doesn't make much difference."[81]

The Exchequer Secretary, Angela Eagle, also made this argument, when duty rates on road fuels were considered at the Committee stage of the *Finance Bill*. Stewart Hosie MP put down a new clause to introduce a mechanism whereby any additional VAT receipts, accrued from long-term increases in oil prices, would be used to reduce duty rates – a 'fuel duty regulator'. In response the Minister argued that this was based on a mistaken notion of an Exchequer windfall from rising pump prices:

> As fuel duty is a fixed rate, reduced fuel sales lead to reduced fuel duty receipts. In addition, the so-called VAT windfall does not materialise. In the context of the wider economy, people tend to have a fixed amount to spend. Therefore, if they have to spend more on one commodity they tend to spend less on others, leaving the overall level of VAT receipts largely unchanged. I might even say that the VAT windfall from higher nominal fuel prices is a myth. Part of the basis of the new clause is that that windfall exists and can be recycled, to give support to hauliers and those particularly affected by high nominal fuel prices. It is also important to remember that VAT-registered businesses are liable to reclaim the VAT that they incur when buying fuel for business purposes, so the VAT paid at the pump should make no difference to their overall tax burden.
>
> Reducing duty would not guarantee a reduction in the fuel price at the pump … there are other reasons for the record levels of oil prices, none of which are to do with levels of fuel duty or taxation policy in the UK [and] … the only way to deal with that is globally. My right hon. Friends the Prime Minister and the Chancellor are attempting to do that in the G7 and other international bodies, where work is going on to see whether the high oil prices caused by different global events can be reduced. Since those wider VAT effects can be taken into account, the lost fuel duty revenues are likely to outweigh any extra VAT, given that there is no windfall. As a result, the new clause, although it is presented as revenue neutral, would be likely to lead to significant revenue losses for the Exchequer. It would also lead to massive volatility in receipts.[82]

At the report stage of the *Finance Bill* Ms Eagle set out the Government's current position on setting duty rates:

> The Government recognise the impact that high fuel prices are having on motorists at the moment and they understand the importance of addressing it. High fuel prices are being driven by changes in the international price of crude oil, which has almost doubled over the past year. The UK continues to work with international partners to ensure efficient and effective global commodity markets.

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78 for example, "Delay to fuel tax clams motorists' concerns", *Financial Times*, 13 March 2008

79 HMT press notice, "Fuel duty increase postponed" (PN 77/08), 16 July 2008

80 British Chambers of Commerce press notice, "Government's six week £505 million fuel tax windfall makes October's 2p fuel duty rise unjustifiable", 16 May 2008

81 "Analysts divided over fiscal silver lining on dark cloud of dearer oil", *Financial Times*, 29 May 2008

82 PBC Deb 15 May 2008, cc245-6

> It was in recognition of the impact of high fuel costs on business and families, of which we have understandably heard a great deal today, that the Chancellor took the decision in the Budget to defer the planned 2p a litre increase in fuel duty. Since October and the last increase in fuel duty, fuel prices at the pump have risen by 20 per cent., even though tax rates have remained unchanged. The Chancellor will look closely at those and all the other factors when considering whether to go ahead with the planned 2p a litre fuel duty increase in October.
>
> Since the fuel duty escalator that we inherited from the Conservative party was abolished in 1999, fuel duty has actually fallen by 16 per cent. in real terms. The current fuel duty rate is 50.35p a litre: had fuel duty gone up in line with inflation since 1999, it would be 61p a litre; and had it gone up in line with the Conservative party's 3 per cent. escalator, as it did prior to 1999, duty rates would now be 79p a litre—a full 29p a litre higher. Furthermore, figures from the Office for National Statistics show that the real cost of motoring has fallen by 13 per cent. in real terms since 1999. That is largely because the purchase price of cars has fallen while their fuel efficiency has increased.[83]

The Government's position on the particular situation of the haulage sector was set out by the Minister in a recent PQ, part of which is reproduced below:

> In taking taxation decisions as part of the Budget process the Government consider a range of factors including relevant environmental, social and economic factors—including those relating to specific industry sectors—into consideration. The Haulage Industry Task Group, including representatives of the haulage industry, considered the operating costs faced by UK and EU hauliers. It recognised that within cost differentials, the fuel tax differential is partially offset by lower labour taxes and other employer costs in the UK, and overall operating costs are similar to Ireland, the Netherlands and Germany.[84]

The Task Group, cited in this answer, published its report in December 2006,[85] following the Burns Report (see above). The Group did not make any recommendations or set out the Government's general view; notably it did not find compelling evidence that the haulage sector faced greater difficulties than other sectors from trends in competition, or that there was a pressing case for it being subject to special treatment by the tax system:

> The Task Group acknowledged the role that economic globalisation has played in recent years in intensifying competitive pressures for a number of sectors across the UK economy. It was clear that technological advances, the liberalisation of trade in goods and services, and improving political conditions in developing countries, were all driving greater competition for a range of UK sectors.
>
> Margins in the haulage industry have tightened, and survey measures of confidence are markedly lower than in other service sectors. However, the current margins in the sector do not stand out as being particularly weak compared with a range of other manufacturing and service sectors. The average profit margin in the road haulage sector was 2.2 per cent according to data from Plimsoll Publishing (2005). Other sectors reliant on commodity inputs exhibited similar figures. For example the average margin in the courier sector was 2.1 per cent, in construction 2.4 per cent, and in metal fabrication 2.2 per cent. As the price of raw materials such as building aggregates,

83 HC Deb 2 July 2008, cc948-9

84 HC Deb 19 March 2008, c220W

85 HM Treasury, *Haulage Industry Task Force: summary of evidence*, 6 December 2006: http://www.hm-treasury.gov.uk/pre_budget_report/prebud_pbr06/other_docs/prebud_pbr06_odhaulage_.cfm

> metals and fuels has risen in recent years (partly due to stronger demand in faster growing economies) all sectors dependant on such inputs have seen margins reduced.
>
> Other sectors open to international competition face large input cost differentials between countries as well. For example, the Department for Trade and Industry (DTI) estimated that operation costs for call centres in some countries are up to 40 per cent lower than in the UK.
>
> The Task Group has also considered the UK tax treatment of some other sectors: filmmaking, spirits, aviation and shipping. In some respects, these sectors are comparable to road haulage, as they are open to foreign competition. However the decision to implement specific tax regimes for these sectors reflects other factors too – including the international mobility of firms operating in these sectors, and the scope for policy action to bring about a significant increase in UK output in these sectors.[86]

The Exchequer Secretary also commented on the position of hauliers at the report stage of the *Finance Bill*, when she argued that a fuel duty regulator would be "very complex, involving very expensive changes to the road fuel duty and VAT systems with no guarantee of actually reducing prices at the pumps." Ms Eagle went on to argue against any scheme for helping the haulage sector through the duty regime:

> I have spoken to many hauliers and their representatives, and I am not unsympathetic, but why should the provision apply to hauliers and not to other equally deserving essential road users? Who would be in the scheme and how would we decide? The Government recognise the road haulage industry's concerns, and those of other businesses, over the current cost of fuel, and we continue to examine the position.
>
> Requests for reduced duty rates for road haulage operators are often associated with the relative competitiveness of the industry compared with foreign operators. Studies have shown that European duty differentials are in many cases offset by other costs such as lower labour rates and other employer costs. Furthermore, a scheme would require the introduction of an administrative mechanism, with potentially high costs. Also any system would create significant compliance and fraud risks.
>
> The Government have continued to support the industry through other policy measures such as the halving of, and subsequent freezes to, HGV vehicle excise duty rates, and the reduced pollution certificate scheme. Also the Government recently announced £24 million of funding for enforcement, in particular aimed at those conducting international trips. That will mean a 50 per cent. increase in the number of HGV checks carried out, including two new enforcement sites at key points on the road network.[87]

3.4 Views of the industry and opposition parties

The haulage sector has been particularly concerned about the impact of high oil prices, and lobbied for changes in road fuel taxes to compensate – with two recent 'go slow' demonstrations.[88] The Freight Transport Association has argued that diesel duty should be cut in half: "Fuel duty for diesel in the UK is 50p per litre compared with a European average of just 25p per litre … a reduction of around 25p is essential … The latest research shows that due to lower fuel and labour costs, foreign lorries working in the UK are able to do so at between 10 and 15 per cent lower cost than UK operators working in the UK".[89] In a recent

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86 HMT, *Haulage Industry Task Force*, December 2006, p7
87 HC Deb 2 July 2008, cc951-2
88 "Lorry fuel tax protest hits roads" & "Hauliers protest over fuel prices", *BBC News site*, 27 May & 2 July 2008
89 FTA press notice, "Fuel duty - 2p increase now unthinkable - 25p cut required", 28 May 2008

letter to the Treasury, the Road Haulage Association argued for the introduction of a 'fuel duty regulator':

> The road haulage profession is in the eye of this economic storm, with its key cost having risen by almost 50% since early last year. As a result, operating costs for many hauliers have risen by around 20% and this must, as a rule, be passed on to haulage buyers and ultimately to their customers … The fuel duty gap was important in 2001 and is even more pressing now, with the UK awash with foreign trucks using low-taxed diesel … hauliers and their customers are looking to the Government to do what it can to at least stabilise prices and I believe that there are actions the Government can take. We have for several years proposed that a fuel duty regulator be adopted, whereby the Government varies duty to take account of oil prices.[90]

The industry has also lobbied for an 'essential user rebate', to target an effective cut in excise duty to the haulage sector. This was one option considered by the Burns Inquiry, mentioned above:

> The scheme is similar in essence to the Fuel Duty Rebate (FDR) which is already in operation for bus services … In addition, a number of EU states – including France – have introduced such schemes albeit with lower rates of rebate than would be necessary in the UK. Essential users (ie owners of O licences within the haulage industry) would be able to claim a rebate on their fuel used for all valid journeys equivalent to the difference between the UK current fuel price and the average EU price. Mileages could be relatively simply verified using the well-tried tachograph system.

It noted that the scheme could be operated by some form of smart card, or a paper-based claims system, but that there were serious difficulties with *any* scheme:

> However, … the … rebate schemes [mentioned here] are being scrutinised by the European Commission in respect of their legality under EU state aid rules. Member states wishing to offer such rebates are required to renew their permissions every two years. These schemes are also vulnerable to fraud and are accordingly limited to small amounts of money – 2p or 3p a litre.[91]

Notably this type of rebate scheme was specifically considered by the Government as part of its consultation on a possible road user charge for lorries. The background to this issue, and the Government's reasons for finally deciding against a user charge in July 2005, are discussed in section 4 of this paper. The advantages of using a repayment scheme as a method of cutting the fuel used in lorries were set out in a progress report on the user charge in March 2004:

> Two methods of delivering a tax cut on fuel used in lorries had been identified in the last progress report [in 2003]: a new chemically marked fuel that would be sold at a discounted rate to haulage operators and a repayment scheme, whereby operators declare how much fuel they have used in each chargeable vehicle. In the repayment scheme, the fuel cut would normally be expected to be netted-off against the charge in a single administrative process.
>
> Consultation with the oil and haulage industry, as well as research undertaken with the Lorry Road User Charge programme, has identified the repayment scheme as the lead option. The main reasons for this are the predicted need for costly infrastructure to

90 RHA, *Open letter to the Exchequer Secretary*, 23 May 2008
91 op cit., *The Burns Freight Taxes Inquiry*, pp47-49

> support a marked fuel and questions about the national availability of a marked fuel for haulage operators. We would expect that for a repayment scheme the bulk of repayment declarations would be made electronically through the use of cards at the point of sale. We believe the use of electronic declarations and other strong mitigating measures we intend to put in place will limit the potential for fraud in a repayment scheme.[92]

Following its decision not to proceed with a user charge, the Government has shown no interest in reviving this idea as a method of cutting hauliers' fuel costs.

Neither the Conservatives nor the Liberal Democrats have called for the escalator to be re-introduced. Spokespersons for both parties supported the Government's duty rate changes in the 2007 Budget, during the debate on this provision in Public Bill Committee. For the Conservatives, Paul Goodman said:

> [In setting duty rates] the Government certainly have to reconcile what the Financial Secretary would call "complex interactions"—the phrase he used about tobacco duties in relation to fuel duties. They have a target of ensuring that 5 per cent. of all transport fuels should be renewable by 2010-11. They have to take into consideration not only the requirement to hit that target, but the competitive position of industry, the effect on agriculture and farming, the consequences for consumers and the effect on the balance between public and private transport. All the while, I am sure there is in the Financial Secretary's mind the memory of the events of 2000. Those are not very easy pressures to reconcile and we shall not oppose the changes.[93]

For the Liberal Democrats, Julia Goldsworthy said:

> We welcome the changes outlined in the clause, which are proposed to take place in October 2007. Those changes represent indexation, following a freeze of these duties since 2003. What it will mean is that there will be some movement on the take of environmental taxes as a proportion of the total tax take. Therefore, it is an important step in the right direction, and one that we support.[94]

In July 2007, the Liberal Democrats published detailed proposals for tax reform, which recommended substantial reductions in personal tax – including a 4p cut in the basic rate of income tax – "financed by green taxes on pollution and by taxes on the wealthy", including "indexing fuel duty to inflation except in periods of oil price spikes".[95]

At the report stage of the *Finance Bill* in July 2008, Members debated a number of new clauses tabled by opposition parties, including a proposal by the Scottish National Party and Plaid Cymru for the introduction of a fuel duty regulator. Speaking for the SNP, Stewart Hosie set out how this mechanism would work in practice:

> In new clause 8, proposed new subsection (1AA) would oblige the Chancellor at every Budget and pre-Budget report to provide both a forecast for oil prices and his anticipated yield from fuel duty and VAT from fuel. If we are going to use these forecasts, it is important that they are laid down in statute. Proposed new subsection (1AB) would oblige him through statutory instrument to reduce the level of duty in direct proportion to the value of the increase accounted for by VAT. I dislike in principle

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92 HMT, *Modernising the Taxation of the Haulage Industry - Progress Report Three,* March 2004, p10
93 PBC Deb 10 May 2007, c91
94 ibid., c78
95 Liberal Democrats, *Reducing the Burden: Policies for Tax Reform*, 12 July 2007, p3: http://www.libdems.org.uk/media/documents/policies/Tax_policy_paper_120707.pdf

> statutory instruments and regulation, too, but my overwhelming priority is that something must be done quickly, and this is the best mechanism by which to achieve that. Proposed new subsection (1AC) would ensure that when the price of a barrel of oil increases above the forecast, the next indexed fuel duty increase is automatically disapplied. That is important, because when the price goes up we can no longer have normal indexed duty increases withheld as a political whim; this must be an automatic consequence of a rise in fuel prices.[96]

Speaking for Plaid Cymru, Adam Price argued "even against the underlying trend, which has to be upward, there may be dramatic surges and falls along the way":

> That is why we need a moderating regulator to provide people with the stability to plan for this new era. We have moved from an era of cheap oil and are now in an era of premium oil, and that will continue. We need to give people the ability to plan for a post-oil economy … However, we cannot do that if we are exposed to the vagaries of the international market. We need a planned transition to a post-carbon economy. A fuel regulator would be an important contribution towards enabling companies, families and individuals to do that.[97]

Speaking for the Liberal Democrats, Jeremy Browne argued that addressing spikes in oil prices was a "laudable objective", but this proposal had a series of drawbacks:

> SNP Members do not address the issue of what would happen if prices were to fall … [In addition, they] are considering the issue of oil revenue as though it were in a silo ... The Treasury has to consider the public finances as a whole. If a Government ring-fence every area where revenue has risen by more than was anticipated, and say, "We must artificially reduce that," but do not seek to ring-fence any areas where the revenue is less than expected, they will end up with an overall revenue shortfall … [Finally] the Government have this mechanism in a rather cruder form already. One of the issues in this debate is whether the Government wish to implement, further defer or cancel altogether the 2p duty rise that is planned for the autumn. One of the considerations that they are presumably taking into account is the overall price of oil and the effects on businesses and private individuals. The Government already have the ability, if they so wish, to vary upwards or downwards the total amount of duty on petrol and diesel depending on wider economic considerations and the price of oil, without having to introduce a mechanism of this sort.[98]

On this occasion the Conservative Party did not take a position on this new clause, though a few days later the Shadow Chancellor, George Osborne, published a consultation document on proposals for a 'fair fuel stabiliser' – a mechanism to ensure that "when fuel prices go up, fuel duty would fall. And when fuel prices go down, fuel duty would rise".[99] The document makes the case that Government policy to generally increase duty rates in line with inflation creates instability in economic policy and the public finances:

> Under the current system, instead of cushioning the blow and helping families to cope, the government adds to the rising cost of living. That's because fuel duty is planned to rise every year by at least the rate of inflation, regardless of what happens to the price of oil. In addition, the other tax levied on fuel, VAT, is charged at the standard rate. So as the price of fuel rises, the amount of VAT charged also rises. This means that when the price of fuel goes up, the amount of tax charged on it also rises. The result is

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96 HC Deb 2 July 2008, c932
97 ibid., c946
98 ibid., cc921-2
99 "Tory tax pledge to 'share pain' of fuel rises", *Financial Times*, 7 July 2008

> annual pressure on the Chancellor and Prime Minister to postpone or cancel increases in fuel duty proposed in each Budget, a practice begun by Gordon Brown as Chancellor. This contributes to a sense of uncertainty and instability in government economic policy.
>
> The current system also makes the public finances more unstable. This is because, when oil prices rise, the Government receives an unexpected windfall from taxes on North Sea Oil production. And when oil prices fall, the Government suffers an unexpected shortfall in revenues. This makes it more difficult for the Government to predict accurately the future state of the public finances.

The paper goes on to ask for views on whether such a mechanism could be “transparent and simple to administer”, while at the same time meeting three policy priorities: “stabilising the public finances, smoothing inflation, and helping to reduce carbon emissions”.[100]

4 Road user charges

4.1 Government policy

The Labour Government first announced that it would consider introducing a road user charge for lorries in November 2000. A consultation document, *Modernising the taxation of the haulage industry*, was published in November 2001.[101] This discussed two possible forms of road user charging: time-based and distance-based charging. In the April 2002 Budget statement the Chancellor announced that:

> Hauliers from overseas should pay their fair share towards the cost of using our roads, and I propose to go ahead with a road charge for lorries that is distance based, with off-setting tax cuts for the UK haulage industry. The financial secretary will consult with the industry on the precise details of the scheme. [102]

Preliminary legislation was included in section 137 of the *Finance Act 2002*. This provided for a “tax, to be known as lorry road-user charge" to be charged on the use of roads by lorries. No details were given, other than that it would be based on distance travelled. The clause allowed ministers to spend money preparing for the scheme. Primary legislation would be needed to introduce the scheme at a future date. At a meeting with representatives of the haulage industry in April 2002 that Government stated that it would ensure that the UK haulage industry would not pay any more as a result of the new charge.[103] Further consultation took place with the industry and progress reports were published in 2002,[104] 2003[105] and 2004.[106]

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[100] Conservative Party, *A Fair Fuel Stabiliser: a consultation on the future of fuel taxation*, July 2008, pp4,3,14; responses are invited up to 19 December 2008: http://www.conservatives.com/tile.do?def=news.story.page&obj_id=145606

[101] HM Treasury, *Modernising the taxation of the haulage industry*, November 2001: http://www.hm-treasury.gov.uk/mediastore/otherfiles/Haulage.pdf

[102] HC Deb 17 April 2002, c394

[103] DTLR press notice, "Modernising the taxation of the haulage industry", 25 April 2002

[104] HM Treasury, *Modernising the taxation of the road haulage industry - progress report one*, April 2002: http://www.hm-treasury.gov.uk/mediastore/otherfiles/modernising_haulage.pdf

[105] HM Treasury, *Modernising the Taxation of the Haulage Industry - Progress Report Two,* 6 May 2003: http://www.dft.gov.uk/pgr/freight/archive/fruc/coll_modernisingthetaxationofthe/modernisingthetaxationoftheh3203

[106] op cit., *Modernising the Taxation of the Haulage Industry - Progress Report Three*

In July 2004, the Government published a paper looking at the feasibility of introducing some form of national road pricing in the UK, at which point it was still anticipated that a lorry charge would come into force in 2007-08:

> The procurement process was launched with an open day for potential suppliers on 12 May 2004. It is currently intended that these contracts should be signed by the end of 2005, with the main enabling legislation to be put before Parliament in the 2005 Finance Bill.
>
> While LRUC will clearly anticipate many features of a national charging scheme, there are a number of key differences. Its immediate purpose is to ensure a fairer system of taxation rather than explicitly to change operators' behaviour. The number of vehicles affected will be around 500,000. Moreover, haulage operators are already operating in a highly regulated environment and are already required to use tachographs; many haulage firms already make use of sophisticated on-board telematics. LRUC will however provide important insights into the procurement and establishment of business structures and into the operation and development of technology.[107]

However, the then Secretary of State for Transport, Alistair Darling, announced in July 2005 that the proposed charge would be scrapped as a stand-alone project and that the scheme would be incorporated in the Government's broader plans for national road pricing:

> A great deal of work has already been done on some of those issues in the development of the lorry road user charging scheme. That has confirmed that a distance-based charge has the potential to be a workable and practical way forward. But our thinking on national road pricing has developed further. We are now taking forward work on a national system of road pricing, so it is right for us to take forward the plans for distance-based lorry charging as part of the wider work on national road pricing—to develop a single, comprehensive, cost-effective system.
>
> Although, therefore, the current procurement for lorry road user charging will not continue, we will continue to work with the industry and to ensure that we carry the full experience gained from the project into the wider work to develop a national road pricing system for cars and lorries. We will also continue to work with the haulage industry to ensure that its needs are represented as we develop a national road pricing system.[108]

The Government has since shifted its focus onto developing urban road charging schemes, with a view to them acting as test cases for a wider national scheme in the future. In April 2008 it published a freight data feasibility study which set out the Government's overall view about a lorry charging, or 'vignette' scheme (see section 4.2, below). It came down against such an idea:

> The study has investigated further the options and carried out more detailed analysis. In particular the vignette scheme, the only option found to have a potentially positive business case, was investigated in more detail. The costs of running a scheme were analysed and compared against the marginal financial and economic benefits that might accrue. The study found that a vignette scheme offered a benefit to cost ratio of between just 1.06 and 1.25 when the necessary HM Treasury 'optimism bias'

[107] DfT, *Feasibility Study of Road Pricing in the UK*, July 2004, paras 6.6-6.7: http://www.dft.gov.uk/pgr/roads/introtoroads/roadcongestion/feasibilitystudy/studyreport/feasibilityfullreport; a number of supplementary reports were published at the same time, some of the quite technical - these are available at: http://www.dft.gov.uk/pgr/roads/introtoroads/roadcongestion/feasibilitystudy/supplementaryreps/

[108] HC Deb 5 July 2005, c173

> calculation was applied to the baseline assessments that are detailed in this report; this finding supported the earlier higher level analysis.
>
> The study team also looked at the risks associated with the introduction of such a scheme. There remain some areas of significant risk associated with the interpretation of the Eurovignette Directive, particularly in the areas of dual charging on the Trans-European Network (specifically as to the application of the Directive to the M6 Toll) and the principles of state aid. The study concluded that were any scheme to proceed, that further legal investigation would be required, and that even after carrying out such investigation it might not be possible to arrive at a definitive answer. The risk remains that were any scheme to be introduced, its legality could be challenged, which could lead to the scheme being abandoned.
>
> The 2008 Budget announced that the vignette scheme should not be progressed at the current time. Other, more economically advantageous, ways of addressing the safety objective such as increased enforcement funding should be progressed where these options are likely to offer better value for money and less risk.[109]

Meanwhile, all the indications are that a national scheme, should one ever be proposed, is a long way off. The *Local Transport Bill* and the Transport Innovation Fund, taken together, will encourage local, but nationally interoperable, charging schemes to go ahead and the freight industry would have to deal with each scheme individually as regards how they would treat HGVs. Separately, in a July 2008 Command Paper, the Government stated its intention to look at some form of toll lanes on motorways.[110]

4.2 European framework

Any lorry road charging scheme in the UK would have to operate within the broad parameters set down in the relevant European 'eurovignette' Directive.

Germany took the initiative in the mid 1990s over the introduction of a lorry road user charge - or the eurovignette as it is known - as a result of concern at the number of trucks using its roads. The eurovignette is an additional road user charge initially introduced in Germany, Denmark, and the Benelux countries on 1 January 1995 under Directive 93/89/EEC. Sweden joined in 1997. It applied, as did the whole Directive, to all trucks over 12 tonnes, whether they were registered in one of these countries, in the rest of the EU or outside the EU. The Directive allowed road user charges to be introduced in an individual Member State (Article 7) and also for Member States to act together (Article 8).

Directive 1999/62/EC replaced Directive 93/89/EEC after it was annulled by the European Court of Justice in 1995. The 1999 Directive came into force on 1 July 2000[111] and was subsequently amended by Directive 2006/38/EC.[112] The aims of the 1999 Directive were to reduce the differences in the levels and in the systems of tolls and user charges applicable within Member States; to provide for greater differentiation of tolls and charges in line with costs associated with the road use; and to further move towards the principle of territoriality.[113] The Directive also lay down certain rules to be followed by Member States

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109 DfT, *Freight data feasibility study: final report*, April 2008, paras 1.4-1.6: http://www.dft.gov.uk/pgr/freight/road/feasibilitystudyfinal.pdf

110 DfT, *Roads-delivering choice and reliability*, Cmnd 7445, July 2008, chapter 5: http://www.dft.gov.uk/pgr/roads/introtoroads/roadcongestion/roadscommandpaper1.pdf

111 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1999:187:0042:0050:EN:PDF

112 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:157:0008:0023:EN:PDF

113 'territoriality' in this case means the ability of States to enforce financial sanctions on foreign nationals

should they wish to retain or introduce tolls and/or user charges. The most important of these framework conditions were:

- **Tolls** should be levied according to the distance travelled and the type of vehicle; **user charges** should be scaled according to the duration of the use made of the infrastructure and to vehicles emission classes;

- Tolls or user charges could only be imposed on vehicles weighing over 12 tonnes, using motorways or multi-lane roads similar to motorways as well as on users of bridges, tunnels and mountain passes;

- No State may impose a toll and a user charge at the same time;

- Member States are responsible for the collection and the monitoring of payments related to tolls and user charges; payments should not be discriminatory and should be set out in such a way to cause as little hindrance as possible to the free flow of traffic; and

- Member States may co-operate for the purpose of introducing a common system of user charges.

The Directive also fixed a maximum level for user charges in accordance with the given period and the environmental performance of the vehicle and limited the daily charge to €8 for all vehicle categories.

The 2006 Directive made some changes to these arrangements. It introduced the possibility for individual Member States to integrate the 'external costs' of road transport into toll prices; these 'external costs' can include congestion costs, environmental pollution, noise, landscape damage, social costs such as health and indirect accident costs which are not covered by insurance. Also, from 2012 Eurovignette will apply to vehicles of 3.5 tonnes or more, a significantly lower threshold compared to the previous version of the Directive. It also provides extra flexibility on the levying of tolls or charges. In particular, these can now be raised on the entire road network, not just motorways. The main features are:

- toll revenue should be used for the maintenance of the road infrastructure concerned or to cross-finance the transport sector as a whole

- as of 2010, countries which already apply tolls or user charges will be obliged to vary their prices according to vehicle pollution standards (Euro standards series) in order to favour the cleanest ones

- authorities may decide to exempt isolated areas or economically weak regions from applying tolls or user charges

- an extra 15% 'mark-up' charge can be levied to finance new alternative transport infrastructure projects such as rail or inland waterways (the mark-up can be raised to 25% for cross-frontier projects in mountainous regions)

- urban areas are finally not included in these extra mark-up charges. However, local authorities can still be raise them under a provision taken from article 9 of the current Eurovignette directive (which for instance allowed the city of London to apply such charges)

- rebates will be possible for frequent users.[114]

The maximum charges permitted were also amended by the 2006 Directive and are now as follows:

	Max. 3 axles	Min. 4 axles
Euro 0	€1,332	€2,233
Euro I	€1,158	€1,933
Euro II	€1,008	€1,681
Euro III	€876	€1,461
Euro IV and less polluting	€797	€1,329

The maximum daily charge was also raised to €11.

In July 2008 the Commission published a proposal to further amend the 1999 Directive to allow for the internalisation of the costs of air and noise pollution caused by traffic into toll charges. During peak periods it also allows tolls to be calculated on the basis of the cost of congestion imposed on other vehicles.[115]

4.3 Views of the industry and opposition parties

The UK road haulage industry and both main opposition parties have indicated their support for some form of lorry road user charging.

As stated above, in 2005, following the Government's decision not to proceed with a lorry road user charge, the RHA and the FTA set up the Burns Inquiry into freight taxes. One of its key recommendations was that foreign vehicles should cover their full UK costs through a vehicle charge or an equivalent mechanism:

> In order to level the competitive playing field with domestic operators, foreign vehicles visiting the UK should pay a vehicle charge. Respondents to the questionnaire, delegates at public meetings and personal letters to the inquiry confirmed the need for this. The NERA economic consultant's report showed that foreign vehicles operating in the UK are costing £195 million every year in terms of road wear. This excludes any direct environmental and accident costs at £35.5m and £32.9m per year respectively. UK vehicles already pay tolls and other charges in other EU member states, so the current status lacks competitive balance and disadvantages UK operators. This is a view supported by the inquiry findings and conclusions.
>
> During the first half of 2005 about half a million accompanied powered vehicles (both UK and foreign) entered the UK per quarter, of which 75 per cent were foreign trucks, ie not registered in the UK. This represents 1.5 million foreign vehicles per annum. This is a significant growth in the proportion of foreign vehicles on UK roads since 1995 when market share was divided evenly between UK-registered vehicles and foreign-registered vehicles. These foreign vehicles travel a total of about 1.1 billion kilometres a year using fuel which is invariably purchased outside the UK, at significantly lower levels of fuel duty. If these fuel purchases were made in the UK, it would raise up to £250 million of tax annually.

[114] http://www.euractiv.com/en/transport/road-charging-eurovignette/article-117451

[115] 2008/0147(COD), 15 July 2008, para 3.1: http://ec.europa.eu/transport/greening/doc/road/2008_07_greening_transport_road_proposal_en.pdf

> Diesel fuel duty rates in Europe average 25p per litre below the UK rate, and this is an unfair competitive advantage for foreign vehicles. Although this gap is better bridged by a duty reduction in the UK, realistically this may not be a practical option in the short-term, so a UK charge to foreign vehicles would seek to level the playing field.
>
> A foreign articulated vehicle can carry a 1200 litre tank of diesel, worth about £300 at the current fuel duty differential rate. The limited tax value of paper vignettes at a European maximum of around £5 per vehicle per day is not sufficient to bridge the competitive difference. The fuel duty advantage of 25p per litre, which at a fuel consumption rate of, say 2.5 kilometres per litre, is a 10 pence per kilometre advantage for foreign vehicles. An additional mileage-based charge would be needed. Based on the 1.1 billion kilometres travelled by foreign vehicles in the UK, such a charge would raise £11 million annually for each penny per kilometre travelled. We would advocate simplicity of approach and avoid the previous LRUC complications of trying to vary charges by road type and time of day – appropriate only with a more expensive electronic system. Any scheme should be limited to total kilometres run.
>
> With the exception of Northern Ireland, which has several inland border crossing points to the Republic of Ireland, the major UK port crossings for commercial vehicles could issue a daily vignette to all vehicles. This would capture all incoming foreign vehicles as a date record to commence mileage charges to be cross referenced by Automatic Number Plate Recognition as that technology is rolled out in the UK by VOSA. This vignette could itself form the basis of an initial daily charge to which would be added a mileage charge.[116]

In addition, the report proposed that UK operators should be rebated for this charge through fuel credits aligned to quarterly VAT returns:

> In order to ensure that any new charges raised are tax neutral for UK vehicles, they should be rebated for these charges. Existing administration systems, such as tachograph readings, could be used to calculate both a kilometre-based charge and fuel duty rebate for fuel purchased in the UK.
>
> These could be reconciled quarterly and sanctioned through checks at the MOT test. Almost all UK road carriers are registered for VAT, which also has to be calculated on a quarterly basis. It would make eminent sense to ensure the fuel and mileage accounting already needed for VAT calculations is not duplicated.
>
> Rebates issued could either be capped at a maximum equivalent to the fuel duty differential, based upon fuel receipts or set against a fuel consumption benchmark, as advocated by Professor Alan McKinnon. Simplicity of operation would be a key objective in agreeing a system of rebating with Government.[117]

The Conservatives have generally been in favour of charging for lorries. However, during a debate on the Major Government's last *Finance Bill* in early 1997, the then Treasury Minister, Philip Oppenheim, explained why it had decided not to proceed with a charging scheme:

> We examined the matter [of introducing a vignette in the UK] carefully and by instinct I was keen to do it, but we took the decision not to, for a couple of reasons. First, in Germany and France … a huge number of foreign truck drivers criss-cross the continent, but in the United Kingdom there is only a small number. If we impose a vignette, we would have to give a small compensating reduction on VED to our own truck drivers. The administrative cost would be relatively high and would raise around

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[116] op cit., *The Burns freight taxes inquiry*, p59
[117] ibid., p59

> £4 million … The amount of money raised would be miniscule, and we would then have to compensate our truck drivers with small reductions in VED. The result would be no revenue gain and a lot of administrative hassle.[118]

In 1999 the Conservative Party, backed by the FTA, called on the Government to cut the tax on British hauliers and recoup the lost revenue by introducing a scheme similar to the eurovignette, referred to as the BRIT disc (British Road Infrastructure Tax).[119] More recently, the August 2007 report by the Party's Economic Competitiveness Policy Group, recommended the 'swift introduction' of a lorry road user charge, balanced by a reduction in either the duty on diesel or VED for UK hauliers:

> Of the £31 billion that the Government raises annually in motoring taxation (even without taking account of corporation tax on car manufacturers and retailers), only £7 billion is spent on roads; and, as already stated, expenditure on new roads in particular has been very low in the last decade. The OECD has concluded that: 'The UK ranks poorly in international comparisons regarding the quality of transport infrastructure and congestion. The case for raising expenditure on strategic roads should be considered'. This becomes clear when one considers that there are 12,000 registered cars for every mile of British motorway, compared to 6,000 in Germany, and even fewer in France and Spain. In other words, if we were to harmonise our road provision with Germany's or that of France we would need to double our motorway network.
>
> Meanwhile, the UK road freight industry has been increasing its efficiency, with fuel consumption reduced by 16% since 1993. And although 25% of lorries still run empty, this is a 25% reduction in twenty years. But their international competitiveness has been reduced by an inequitable taxation system, and hence the highest cost base in Europe. UK hauliers not only pay twice as much in diesel tax as their continental peers (who take on as much diesel as they can buy when leaving the French or Belgian channel ports for the UK); but they are also alone in having to pay heavy annual vehicle excise duties, simply to have the right to travel on British roads. This has resulted in a substantial loss of market share over the last ten years, with 75% of all lorries leaving the UK to travel on the Continent now foreign-owned.
>
> The British haulage industry has made strong representations to Ministers, but to no avail. We therefore recommend that an incoming Conservative government should implement a system of charging all lorries for their mileage on British roads. At the same time, either the duty on diesel, or the rates of truck excise duty, would be reduced for UK hauliers, so that their overall level of taxation would not rise. This would have several advantages: British truck owners could compete more fairly, without breaking any EU rules; the Treasury would benefit from extra revenues as foreign trucks started to pay user charges; and there would be more money to pay for much needed road improvements.[120]

In August 2007 and June 2008 the Liberal Democrats published policy papers on the environment and transport, which set out their support for a lorry road user charge. The 2008 paper stated that the Party would:

> Introduce lorry road user charging on a pay per mile basis, varying according to emissions. This would be similar to schemes currently operating in Germany, Austria,

[118] SC (B) Deb 4 February 1997, cc138-139

[119] "Hauliers set to disrupt cities and ports", *Financial Times,* 9 April 1999; and "Foreign lorries may face road charges", *The Daily Telegraph,* 13 April 1999

[120] op cit., *Freeing Britain to Compete: equipping the UK for globalisation*, pp27-28; this has yet to be adopted as official Conservative Party policy

Switzerland and the Czech Republic, would provide endowment for the Future Transport Fund and would operate using existing technology.[121]

5 Labour costs and drivers' hours

5.1 Drivers' hours and working time framework

Any driver who uses a vehicle for the carriage of goods for commercial or business purposes, irrespective of the vehicle weight, must conform to strict rules on the amount of time spent driving. For most goods drivers the rules also include requirements relating to minimum breaks to be taken during the driving day and to both daily and weekly rest periods. Drivers of most large goods vehicles over 3.5 tonnes are subject to European Regulations; those lorry drivers exempt from the European rules are subject to UK national rules set out in the *Transport Act 1968*.

Since 11 April 2007 the drivers' hours rules have been set out in Regulation 561/2006/EC.[122] This replaced the earlier 1985 Regulation.[123] The 2006 Regulation was brought into force in the UK by the *Drivers' Hours and Recording Equipment Regulations 2007* (SI 2007/1819).[124] The Regulation applies to goods vehicles weighing more than 3.5 tonnes and provides a common set of Community rules for maximum daily and fortnightly driving times as well as daily and weekly minimum rest periods for all drivers of road haulage and passenger transport vehicles, subject to specified exceptions and derogations. The scope of operations regulated is tremendously diverse - it includes passenger transport and road haulage operations, both international and national, long and short distance, drivers for own account and for hire and reward, employees and self-employed. The aim of the Regulation is to avoid distortion of competition, improve road safety and driver working conditions within the Community.

The general rules are as follows:

- the daily driving period shall not exceed nine hours, with an exemption of twice a week when it may be 10 hours;
- there can be six driving periods per week;
- the total weekly driving time may not exceed 56 hours and the total fortnightly driving time may not exceed 90 hours;
- the daily rest period shall be at least 11 hours, though it may go down to nine hours three times a week;
- there is provision for a split rest of three hours followed by nine hour rests to make a total of 12 hours rest per day;
- weekly rest is 45 continuous hours, which can be reduced to 24 hours;
- compensation arrangements apply for reduced weekly rest periods; and

[121] *Fast track Britain: building a transport system for the 21st century* (policy paper 85), June 2008, para 2.4.10: http://www.libdems.org.uk/media/documents/policies/FasttrackBritain.pdf

[122] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:102:0001:0013:EN:PDF

[123] 3820/85/EEC: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31985R3820:EN:HTML

- breaks of at least 45 minutes (separable into 15 minutes followed by 30 minutes) should be taken after 4.5 hours at the latest.

The implementation of the Regulation is subject to a biennial report, which indicates the level of checks undertaken and offences detected, based on information provided in a common format by Member States. The most recent report is for period 2003-04 and was published by the European Commission in October 2007.[125] The Commission has also published guidance notes on the implementation of the drivers' hours rules.[126]

Certain categories of large goods vehicle drivers are exempt from EU rules but are subject to UK national rules. The exemptions are set out in Schedule 1 to the 2007 Regulations. The British drivers' hours law for those outside the scope of the EU Regulation is contained in Part VI of the *Transport Act 1968,* and subordinate regulations.[127]

There are separate 'working time' rules for 'mobile workers' in the road transport sector. In March 2002, the EU adopted Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities.[128] It was implemented in the UK on 4 April 2005 by the *Road Transport (Working Time) Regulations 2005* (SI 2005/639). The Government consulted on the Directive in both 2003[129] and 2004.[130] The Directive applies to those 'mobile workers' in the road transport sector who are covered by the drivers' hours rules. Self-employed drivers are excluded at least until 23 March 2009.

The Directive imposed a limit of 48 hours (averaged over four months) on the weekly working time of those covered and an absolute limit of 60 hours' work in any week (the EU drivers' hours rules impose a limit of 90 hours' driving in any one fortnight). 'Working time' is defined to cover activities such as loading and unloading, cleaning and maintenance as well as actual driving. It also imposes a limit of ten hours on night work. No opt-out of the average 48 hour week is allowed. Article 5(1) of the Directive provides that mobile workers should 'in no circumstances' work for more than six consecutive hours without a break. If working hours total between six and nine hours, the break should be at least 30 minutes and at least 45 minutes if working hours total more than nine hours. These breaks can be subdivided into periods of at least 15 minutes each. Article 6 of the Directive applies the drivers' hours rules on rest times to apprentices and trainees.

In April 2007, the median[131] number of hours worked by full-time heavy goods vehicle drivers was 48 hours per week compared with 44.5 hours per week for full-time van drivers.[132] The

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[124] the UK Government consulted on the implementation of the new Regulation in October 2006: DfT, *Legislative changes to comply with new Regulation on drivers' hours*, 26 October 2006: http://www.dft.gov.uk/consultations/archive/2007/newregulationondrivershours/

[125] EC, *Report from the Commission on the implementation in 2003-2004 of Regulation (EEC) No 3820/85* (COM (2007) 622), 12 October 2007: http://ec.europa.eu/transport/road/policy/social_provision/doc/2003-2004/com_2007_0622_en.pdf

[126] available on the Commission's website: http://ec.europa.eu/transport/road/policy/social_provision/social_driving_time_en.htm

[127] *Drivers' Hours (Harmonisation with Community Rules) Regulations 1986* (SI 1986/1458); and: *Community Drivers' Hours and Recording Equipment Regulations 2007* (SI 2007/1819)

[128] http://ec.europa.eu/employment_social/labour_law/docs/directive2002_15_en.pdf

[129] DfT, *Road Transport Directive (2002/15/EC): consultation*, 23 October 2003: http://www.dft.gov.uk/consultations/archive/2004/rtdec/

[130] DfT, *Road Transport (Working Time) Regulations and Formal Guidance for industry: consultation*, 1 November 2004: http://www.dft.gov.uk/consultations/archive/2004/rtfguid/

[131] the median is the value below which 50% of employees fall; it is preferred over the mean for earnings and hours data as it is influenced less by extreme values, and because of the skewed distribution of such data

median number of hours worked for all employees in the UK was 37.5 hour per week in April 2007.[133]

5.2 Employment and earnings in the road haulage industry

The table below displays employment and median earnings data for HGV and van drivers in the UK in each year since 2002. There is some fluctuation in the employment level of each occupation between years, however, employment as a proportion of total UK employment has remained relatively constant at 1.0-1.2% for heavy goods vehicle drivers and 0.7% for van drivers.

In real terms, median annual earnings of employees in both occupations have increase over the period 2002-07, albeit by varying degrees (10.5% for heavy goods vehicle drivers and 5.7% for van drivers).[134]

Employment and median gross earnings of drivers of heavy goods vehicles and vans: UK

	Heavy goods vehicle drivers				Van drivers			
	Employment		Median earnings (a)		Employment		Median earnings (a)	
	Level (000s)	% change on previous year	£ per annum	% change on previous year (real terms)	Level (000s)	% change on previous year	£ per annum	% change on previous year (real terms)
2002	326		£19,377		189		£15,711	
2003	314	-3.6%	£20,395	3.7%	183	-3.2%	£15,969	0.2%
2004	302	-4.0%	£20,998	1.8%	197	8.1%	£16,357	1.3%
2005	312	3.3%	£21,708	1.4%	199	0.9%	£17,217	3.3%
2006	309	-1.1%	£22,600	2.1%	209	5.0%	£17,370	-1.1%
2007	304	-1.5%	£23,480	1.1%	201	-3.8%	£18,204	2.0%
2008	333	9.5%			204	1.5%		

Notes: Employment data are for the quarter Jan-Mar of each year and all levels are rounded to the nearest thousand.
(a) The methodology for the Annual Survey of Hours and Earnings has changed over the time period displayed and there are discontinuities between the following years: 2003-2004; 2006-2007. Comparisons over time periods that encompass these years should therefore be treated with a degree of caution. Earnings data are for all full time employees on adult rates who have been in the same job for more than a year. Real terms changes based on the Consumer Prices Index for April of each year.

Sources: ONS, Labour Force Survey, Jan-Mar 2002-2008; ONS, Annual Survey of Hours and Earnings, April 2002-2007

5.3 Labour costs: EU comparisons

International comparisons of labour costs for the road haulage industry are not available. However, comparisons of labour costs for production workers in the manufacturing industry are available; while these do not necessarily reflect those of workers in the road haulage industry, the data does provide a useful insight into the relative cost of labour and its composition.

The table below displays hourly compensation costs (in US dollars in 2006) for production workers in the manufacturing industry in selected European countries, and is based on data

[132] these data and the forthcoming data on employment and earnings are based on the following 4-digit Standard Occupational Classifications (2000): 8211 – Heavy Goods Vehicle Drivers – Large Goods Vehicles (LGV) drivers (formerly HGV drivers), collect, transport and deliver goods in rigid vehicles over 7.5 tonnes, articulated lorries and lorries pulling trailers; 8212 – Van Drivers – Van drivers collect, transport and deliver goods in vehicles up to 7.5 tonnes in weight

[133] ONS, *Annual Survey of Hours and Earnings*, April 2007, table 14.9a

[134] please note when analysing earnings data that the methodology for the Annual Survey of Hours and Earnings (ASHE) had changed over the time period displayed and therefore any comparisons over time should be treated with a degree of caution; equally, as with any statistical sample survey, ASHE data are subject to sampling variability; in particular, sample sizes for four digit occupational codes such as those provided in the table are relatively small which may cause variations in estimates between years

published by the US Bureau of Labor. Compensation costs include hourly direct pay, employer social insurance expenditures and other labour taxes.[135]

Hourly compensation costs: 2006
Production workers in manufacturing in selected EU countries

	Total		Composition			
			Direct pay			Social security, insurance and other taxes
	US dollars	Index, UK=100	For time worked	Other	Total	
Austria	$30.5	112.3	51.5%	21.5%	73.0%	27.0%
Belgium	$31.9	117.5	50.6%	19.5%	70.0%	30.0%
Czech Republic	$6.8	24.6	60.6%	12.6%	73.3%	26.7%
Denmark	$35.5	130.7	72.0%	17.6%	89.6%	10.4%
Finland	$29.9	110.5	59.4%	19.6%	79.0%	21.0%
France	$24.9	92.1	55.7%	12.2%	68.0%	32.0%
Germany	$34.2	126.3	57.9%	19.1%	77.0%	23.0%
Greece	$16.1	59.6	53.5%	19.2%	72.6%	27.4%
Hungary	$6.3	22.8	54.3%	17.5%	71.8%	28.2%
Ireland	$26.0	95.6	71.5%	11.6%	83.1%	16.9%
Italy	$25.1	92.1	54.9%	14.7%	69.6%	30.4%
Luxembourg	$27.7	101.8	67.3%	19.2%	86.5%	13.5%
Netherlands	$32.3	119.3	58.2%	19.4%	77.6%	22.4%
Norway	$41.1	150.9	67.1%	12.9%	80.0%	20.0%
Poland	$5.0	18.4	59.1%	23.8%	82.8%	17.2%
Portugal	$7.7	28.1	62.3%	18.1%	80.4%	19.6%
Spain	$18.8	69.3	54.5%	19.9%	74.4%	25.6%
Sweden	$31.8	116.7	56.5%	10.4%	66.9%	33.1%
Switzerland	$30.7	113.2	65.3%	18.2%	83.6%	16.4%
United Kingdom	$27.1	100.0	69.7%	9.0%	78.7%	21.3%

Source: BLS, International Comparisons of Hourly Compensation Costs for Production Workers, Supplementary tables

In 2006 a number of EU countries including Austria, Germany, the Netherlands and Sweden had levels of hourly compensation costs for production workers in manufacturing higher than those in the UK.

5.4 Views of the industry and opposition parties

The Burns Inquiry report (mentioned above), gave the industry's views on labour costs, drivers' hours and working time. One of its recommendations was that VOSA (Vehicle and Operator Services Agency) enforcement resources should be extended and focused on drivers' hours and weight checks with transparency of data across Europe. It stated that in 2004 VOSA stopped only one percent of foreign vehicles visiting the UK, but that foreign lorry drivers were more than three and a half times as likely to be breaking the drivers' hours rules. The report stated:

> This level of non-compliance calls for more focus on the part of VOSA towards drivers' hours and vehicle weight checks for all vehicles. VOSA now operates a system of targeted checks for UK-based operators, working on available intelligence to make maximum use of their scarce resources. An equitable and balanced framework between UK and foreign vehicle checking is required. A 1 per cent probability of detecting potentially illegal foreign vehicle operation is not high enough. VOSA

[135] a full definition of compensation costs is provided on page 9 of the following publication: US Department of Labor News Release, *International Comparisons of Hourly Compensation Costs in Manufacturing, 2006*, 25 January 2008

> resources should be extended, especially at main port entry routes and adequate space must be allocated at all main ports to permit 24 hour, 7 day week enforcement operations.[136]

As to the opposition parties' views, the UK drivers' hours regulations were debated in Delegated Legislation Committee in June 2007. The Conservative Spokesman, Owen Paterson, said:

> It is worth pointing out at the beginning that we should only be debating the issue of enforcement. The introduction of the regulations occurred some time ago, has caused considerable controversy in the industry—one of the best regulated and probably best behaved in Europe—and has been onerous … On the question of enforcement agencies, in several cases, the regulations are already causing hauliers to change their locations to ensure that their trunk routes fall within the acceptable journey time. The experience of the operators and the tachograph readers suggests that the equipment could be updated. Apparently, they are still using old archaic methods such as Excel spreadsheets to analyse digital tachographs, and vet operators and drivers' compliance. More modern systems could be implemented, and there are lessons to be learned from private companies. What are the Minister's thoughts on ways to ensure that VOSA has the very latest equipment and the right tools for the job?
>
> I repeat, the vast majority of UK operators intend to abide by this directive, and they have put a lot of effort into that over the last few years. However, they are exasperated by hauliers who come from other countries, which I have already listed, that are not as far advanced and do not enforce the law at home. To do that here we need agencies that are up to the mark with the very latest equipment.[137]

When the regulations were debated in the House of Lords the Conservative Spokesman, Lord Hanningfield, highlighted the perceived discrepancy in enforcement priorities. He said:

> The vast majority of UK operators intend to abide by the regulations. However, they are exasperated by hauliers from other countries who flout such regulations. During the passage of the Road Safety Bill, we discussed at some length allowing UK authorities the ability to enforce and prosecute foreign drivers for offences committed in this country. Will the Minister say where we are in achieving this objective? … We in this country seem to be extremely good at enforcing—or, as some have put it, gold-plating—EU legislation, to the detriment of UK interests, while the evidence in other countries is that they are much less rigorous about doing the same thing. In addition, effective enforcement depends on agencies having the capacity and equipment to do so.[138]

The Liberal Democrats concerns with the drivers' hours rules appear to have been mostly limited to their impact on the passenger transport industry rather than goods vehicles.[139]

6 Cabotage

6.1 European framework and Government policy

The Community rules governing access to the road transport market and the admission to the occupation of road transport operators are laid down in various regulations and

[136] op cit., *The Burns road freight inquiry*, p60
[137] Delegated Legislation Committee, 12 June 2007, c4 and c8
[138] HL Deb 18 June 2007, c167
[139] see, e.g., Alistair Carmichael, Delegated Legislation Committee, 12 June 2007, c10 and Lord Bradshaw, HL Deb 18 June 2007, c162

directives. Regulation 881/92/EEC of 26 March 1992 consolidated the existing legislation on international transport between Member States and laid down definitive arrangements on market access.[140] Rules on cabotage (i.e. the operation of transport services within a Member State by a carrier established in another Member State) were laid down separately in Council Regulation 3118/93/EEC of 25 October 1993. The 1993 Regulation allows the provision of a road haulage service within a Member State by a haulier established in another Member States under the condition that this service is provided *on a temporary basis*. The initial idea of authorising cabotage operations was to achieve a higher utilisation of vehicles engaged in international road transport by allowing their use in domestic transport following the international journey. Without cabotage, vehicles might have to return home empty. In a debate on the Conservative Government's last *Finance Bill* in early 1997 the then Treasury Spokesman explained the problem:

> Although we supposedly have a single market in Europe … we do not have a single market that allows truck drivers free access to take goods to one country, to load up again and come back. The result is ludicrous. While European Governments and the European Commission play lip service to reducing traffic on the roads and reducing pollution, around 25 per cent of trucks criss-crossing Europe are, on average, one quarter empty because of cabotage – because they cannot pick up loads for their return journeys (…) We want to move as quickly as possible towards an open system, which, unfortunately, other countries are not so keen to do.[141]

In practice it is difficult to assess the temporary character of a transport operation and thus whether this transport is legal or not.[142] The Burns Inquiry explains the difficulty in applying 'temporary' to this practice:

> … there is no clarification of the meaning of the phrase 'on a temporary basis'. It has been interpreted in different ways by various member states. In the UK, the DfT has said that the non-registered haulier must be able to prove that the vehicle has been leaving the UK at least once a month.
>
> The European Commission's interpretation of temporary is based on three relevant decisions of the European Court of Justice in the cases of Schnitzer, Andreas Hover and Gebhard. Four criteria must be taken into account in determining whether specific cabotage operations are lawful.
>
> **Duration** of the cabotage work in days or weeks
>
> **Frequency**, ie the number of movements carried out
>
> **Periodicity**, ie whether the operation is regular or occasional
>
> **Continuity**, whether the operator is doing any other work or is engaged solely on that cabotage work
>
> All of this says that VOSA, the agency responsible for ensuring that operators comply with legislation surrounding the use of goods vehicles, does not have an easy job trying to sort out what is cabotage. Its traffic examiners have the power to impound a vehicle and its load if it is operating without an operator's licence. It appears that VOSA

[140] amending the original 1962 Directive on the establishment of common rules for certain types of carriage of goods by road; 'access to the market' covers the various rights to carry goods on the road; 'cabotage' is a particular type of operation
[141] SC (B) Deb 4 February 1997, c139
[142] the European Commission attempted to clarify things with an interpretative communication in January 2005 (OJ C 21 of 26.1.2005, p2), but confusion appears to persist

> is applying a cautious interpretation of what is currently going on at East Anglian ports like Felixstowe and in Kent. This is resulting in great concern that its action is inadequate, or that resources are insufficient to tackle the issue.[143]

Consequently, in 2006 the European Commission issued a consultation paper on simplifying the existing rules.[144] One of the particular issues highlighted was the ambiguous wording of 'temporary basis' as it relates to cabotage within the Union and the diversity of interpretation this has prompted. There was a concern that these varying interpretations could lead to potentially unfair competition. In its response to the consultation, the UK Government stated:

> The current cabotage rules, contained in Regulation 3118/93, are compromised by a lack of clarity about what is meant by "on a temporary basis". This lack of clarity in the underlying legislation means that any national interpretation of the rules is open to challenge. It has also led to a multitude of different interpretations of the rules and is both confusing and, potentially, obstructive for road hauliers.
>
> We support, in order to create a greater clarity for the industry, moves to provide a clearer and more precise definition of road cabotage. However, in addition to clarity and precision, it is important that the rules are:-
>
> Easily enforceable in practice and
>
> Do not place any additional administrative burdens on road hauliers.[145]

In January 2008 the Commission published a recast proposal for a regulation on common rules for access to the international road haulage market.[146] The proposal would mean that cabotage would be authorised as often as needed, so long as hauliers make no more than three additional trips in the seven days following any journey abroad. This would essentially lift all cabotage restrictions by 2014.[147] The main aspects of the proposed regulation are as follows:

> A simple, clear and enforceable definition of "cabotage" allowing for up to three transport operations consecutive to an international journey and within seven days and the obligation or the holder to keep in the vehicles documents like the consignment letters which show the date and place of arrivals and departure;
>
> a simplified and standardized format for the Community licence, certified copies and the driver attestation in order to reduce the administrative burden and delays especially at road side checks;
>
> enhancing of the current legal provisions by obliging a Member State to act, when requested to do so by another Member State, when a haulier to whom it delivered a Community licence commits an infringement in the Member State of establishment or in another Member State. Such action should take the form of at least a warning. Enhanced procedures to communicate between Member States are put in place using

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[143] op cit., *The Burns road freight inquiry*, p57

[144] European Commission, *Revision of the community legislation on the access to the road transport market and on the admission to the occupation of road transport operator – consultation paper*, 2006: http://ec.europa.eu/transport/road/consultations/doc/road_market/2006_08_09_road_market_consultation_paper_en.pdf

[145] DfT, *Revision of the community legislation on the access to the road transport market and on the admission to the occupation of road transport operator – UK Government response*, August 2006, Q17: http://ec.europa.eu/transport/road/consultations/doc/road_market/administrations/ms_uk.pdf

[146] http://ec.europa.eu/transport/road/legislation/doc/com_2007_265_en.pdf

[147] "MEPs vote to lift national cabotage restrictions", *EurActiv*, 23 January 2008: http://www.euractiv.com/en/transport/meps-vote-lift-national-cabotage-restrictions/article-169800

> the contact points established pursuant to the new Regulation on the admission to the occupation of road transport operator.[148]

The Department for Transport issued a consultation paper on the new Regulation in December 2007. A summary of responses to the consultation was published in April 2008.[149] The Government's view was given in the summary of responses as follows:

> In the EU negotiations on the proposed Goods Market Regulation, the Commission has confirmed that regular or fixed contract work for the same customer would be permitted under the proposed definition of cabotage. As it stands, the proposed definition also refers to hauliers being permitted to carry out cabotage with the same vehicle, which would mean that a haulage operation could use a number of vehicles, to undertake a series of cabotage operations in the host Member State at the same time. The Government believes therefore, that if the proposed Regulation was implemented, there is some potential for distortion to the UK haulage market. To date, the Commission has not produced any supporting evidence to challenge this view. The Government is also concerned about the safety of some non-resident hauliers operating on UK roads. For example, the statistics from 2004/5 in respect of non-resident hauliers' prohibitions on drivers' hours rules, were three times as high as hauliers from the UK. So, while the Government can largely accept the Commission's proposed definition of cabotage, we would want this to be restricted to casual and temporary activities only in order to prevent regular contract working until we have the evidence to suggest that such restrictions are not necessary.
>
> However, the Government agrees in principle that there could be greater liberalisation of the cabotage market in the longer-term, providing evidence is available which demonstrates that the market conditions are right for this. On this basis we have supported a proposal in the EU negotiations for the Commission to undertake a study in the medium term to consider the impacts of greater liberalisation and to produce evidence to support any further opening of the cabotage market.[150]

It was reported in June 2008 that the EU Council of Ministers had agreed a deal that could see new a cabotage regime in place within six months and further regulations for access to the road haulage industry following in June 2009.[151] EurActiv reported:

> Following a lengthy debate on 13 June, ministers endorsed a compromise proposal from the Slovenian Presidency that would allow truck drivers established in one EU country to carry goods within another member state (so-called 'cabotage') (…)According to the compromise achieved in the Council, hauliers would be authorised to undertake a maximum of three cabotage trips within their country of destination - within seven days of their international delivery - as of 2010.
>
> To win over some of the EU's big trucking nations, including Belgium, the Netherlands and most of the eastern member states, a clause authorising truck drivers to carry cargo back with them on their return trip or deliver to transit countries on their way home was also introduced.

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[148] European Commission, *Proposal for a regulation on common rules for access to the international road haulage market (recast),* December 2007, p6

[149] all relevant documents available at: http://www.dft.gov.uk/consultations/closed/euroadtransportproposals/

[150] DfT, *Summary of responses to the Public Consultation on the European Commissions Road Transport Proposals*, April 2008, Q27: http://www.dft.gov.uk/consultations/closed/euroadtransportproposals/

[151] "EU Council of Ministers agrees new cabotage deal", *RoadTransport.Com*, 20 June 2008: http://www.roadtransport.com/Articles/2008/06/20/130947/eu-council-of-ministers-agrees-new-cabotage-deal.html; see also: HC Deb 23 June 2008, c4WS

> Such "return cabotage" would nevertheless be "limited to one operation per transited member state within the three days following the unladen entry into the territory of that member state" and could not be carried out in addition to the above-mentioned cabotage trips (…)
>
> Another fear is that competition will mainly stem from companies based in low-wage countries, leading to distortions due to large variations in national social and fiscal conditions.
>
> To allay these fears, a clause stressing the temporary and non-systematic nature of cabotage was also introduced. It states that cabotage operations "should not be prohibited as long as they are not carried out in a way that creates a permanent or continuous activity within a host member state".[152]

6.2 Views of the industry

The FTA and the RHA were reported in June 2008 as believing that "the best deal on cabotage has been achieved given that the European Parliament's eventual goal is full liberalisation":

> The European Commission is due to analyse market and employment conditions in 2013 and may recommend lifting all restrictions by 2014. Chris Yarsley, European affairs manager for the FTA, says: "The ministers accepted that cabotage must not be carried out in a way that creates a permanent or continuous activity in a host member state."
>
> Jack Semple, director of policy at the RHA, adds: "We haven't got what we originally wanted, which was one domestic job on each visit, but since the three in seven was going to be adopted it was important to put it in context. We are in favour of liberalisation as long as there is a level playing field."[153]

In a letter to *The Daily Telegraph*, the Chief Executive of the FTA said:

> Rocketing fuel prices, combined with the Government's ultra-high fuel duty regime, threatens the British transport industry. Our duty rate for diesel is 50p per litre, compared with a European average rate of just 25p per litre.
>
> A move to liberalise the European haulage market would severely worsen this situation. Due to the cheaper fuel available in Europe, using foreign haulage firms would be considerably attractive to customers seeking the lowest prices. Foreign companies could establish depots in northern France, thus allowing lorries to travel to Britain in order to carry out work, returning to France only to refill their tanks without paying any fuel duty or road charges to the British exchequer. A full tank would allow them to work as far north as Scotland without ever needing to buy any British diesel.[154]

In evidence to the Transport Committee in January 2008, Roger King of the RHA said:

> One of the things that concern us is that by 2020—in fact, well before then—there will be an open and free market in Europe for the movement of goods by road. The cabotage rules which we currently operate under, and which are being amended to permit three journeys in seven days by any international haulier operating in the UK, will be swept away, if MEPs have their say, by 2012. We have about four years to level

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[152] "EU ministers clinch deal on road 'cabotage", *EurActiv*, 16 June 2008; the article stated that Austria voted against and Italy, Portugal and the Czech Republic abstained

[153] op cit., "EU Council of Ministers agrees new cabotage deal"

[154] "Pricing out our lorries", *The Daily Telegraph*, 9 June 2008

> that playing field, which I think we are all aware of, in terms of fuel prices. To allow foreign competition coming into the UK with the benefit of low fuel prices will cause enormous problems for the indigenous UK haulage sector.[155]

6.3 Cost advantages of foreign competitors

The table below sets out estimates of the cost differentials, compared to home operators, for selected countries. Operators in nearly all other countries included had lower costs and the gap was largest for those from the new Member States.

February 2008		**June 2006**	
Netherlands	+1%	Germany	+1%
Great Britain		**Great Britain**	
Italy	-2%	Netherlands	-2%
Germany	-3%	Ireland	-2%
Belgium	-4%	Belgium	-7%
Ireland	-7%	France	-8%
France	-8%	Czech Republic	-10%
Czech Republic	-16%	Italy	-12%
Poland	-23%	Spain	-14%
Hungary	-24%	Poland	-24%
		Hungary	-27%

Source: Comparative HGV operating costs across the EU, FTA news release 14 May 2008

In 2007 the country with the largest number of vehicles travelling from the UK to mainland Europe (and hence undertaking haulage in the UK) was the Netherlands, followed by Germany, Poland, France and Spain. Together, goods vehicles registered in these countries made up just under half of the number travelling to mainland Europe in 2007. A country's location relative to the UK and the size of its economy/haulage industry are important factors alongside its relative costs. The largest increase in recent years has been in vehicles from Poland. In 2003 (the last full year before joining the EU) 14,000 powered goods vehicles registered in Poland travelled from the UK to mainland Europe. In 2007 this had reached 205,000. Over the same time there have been falls in the number of vehicles travelling from the UK to Europe registered in Germany, France, Spain, the Netherlands and the UK. Vehicles from the Czech Republic and Hungary have also seen large percentage increases, but their absolute numbers are still below half of those from Poland.[156]

7 Lorry weights

7.1 National and international limits

The current UK limit is 44 tonnes for lorries with 6 axles with maximum axle weight limit of 10.5 tonnes and 40 tonnes for lorries with 5 or 6 axles with maximum axle weight limit of 11.5 tonnes. The 40 tonne limit was introduced in January 1999 following a European Directive.

The EU first made proposals to harmonise maximum weights and dimensions for vehicles in international transport in 1971. There followed a long period of discussion and debate and revised proposals were produced in 1979 and 1981. That finally led to agreement, in

[155] op cit., *Freight Transport*, Q69
[156] DfT, *Road goods vehicles travelling to mainland Europe 2007*

December 1984, of Directive 85/3/EEC[157] which set a limit of 40 tonnes on five or more axles for the heaviest lorries used on international journeys between Member States.

Subsequent amendments to the Directive introduced weight limits for two, three and four axle vehicles, revised dimensions for the width of refrigerated vehicles, and revised length for articulated vehicles and drawbar combinations. Amendments in 1992 introduced a technical definition for ‘road friendly’ suspension for the drive axles of some of the vehicles in the Directive. Amendments in 1998 encouraged the use of combined transport. The UK secured a derogation until January 1999 from the provisions of the 1985 Directive, as amended, to allow it to maintain its existing weight limits of 38 tonnes for articulated vehicles and later, in 1986, to limit axle loads to 10.5 tonnes on the grounds that extra time was needed to strengthen bridges for the increased weights. Under Directive 96/53/EC the UK has been obliged to allow 40-tonne, five-axle lorries on UK roads since 1 January 1999; at the same time the maximum axle weight for lorries was raised from 10.5 to 11.5 tonnes.[158]

The introduction of 44-tonne lorries was first recommended in the Armitage Report of December 1980,[159] though this was not accepted by the Government of the day.[160] Following a further report by the House of Lords in 1994, the then Conservative Government issued a consultation paper in December 1996, seeking views on an increase in the general weight to 44-tonnes.[161] In March 1997 the Government announced that it would allow lorries engaged in ‘piggyback’ road/rail movements to operate at 44 tonnes, but the wider question was deferred because of the 1997 General Election.[162]

The new Labour Government gave its views on heavier lorries in its 1998 transport White Paper. It stated that although, under EU law, the 40-tonne requirement only applied to international journeys, the Government had decided that such vehicles could be used for both domestic and international journeys. It would have been difficult in practice to distinguish national from international journeys.[163] As to 44-tonne lorries, it stated that the Commission for Integrated Transport (CfIT) had been asked to consider the case for allowing 44-tonne lorries, on 6 axles, for general use.[164] CfIT produced an interim report in March 2000 that stated that the introduction of 44-tonne lorries would generate efficiency savings, leading to a small net reduction in lorry mileage, and produce environmental benefits. The possible drawbacks included vehicles travelling increased distances and the diversion of freight from rail to road.[165] CfIT did not publish its final report until after the Government had already taken the decision to proceed with 44-tonne lorries in February 2001. The final report made several recommendations, in particular, that all 44-tonne lorries should reach Euro II emission standards; and that there should be more road haulage enforcement activity and better resourcing of enforcement.[166]

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[157] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31985L0003:EN:HTML
[158] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996L0053:EN:HTML
[159] op cit., *Report of the inquiry into lorries, people and the environment*, p144
[160] DoT, *Lorries, people and the environment: the Government’s policies in detail*, November 1982
[161] DoT, *Lorry Weights - a consultation paper,* 2 December 1996: http://www.dft.gov.uk/consultations/archive/1997/lw/lorryweightsaconsultationdoc1695
[162] DoT press notice, "John Watts gives piggyback the green light", 6 March 1997
[163] op cit., *A new deal for transport: better for everyone*, para 3.160:
[164] ibid., para 3.168
[165] CfIT, *Permitting 44 tonne lorries for general use in the UK*, 6 March 2000: http://www.cfit.gov.uk/docs/2000/44tonne/44tonne/index.htm
[166] CfIT, *Permitting 44 tonne lorries for general use in the UK,* 20 February 2002: http://www.cfit.gov.uk/docs/2002/44tonne/44tonne/final/index.htm

The Government announced in Budget 2000 that 44-tonne, six-axle lorries would be allowed from 1 January 2001 (later changed to 1 February).[167]

7.2 Government policy on 'supertrucks'

There has been some speculation in recent years about the possibility of longer, heavier vehicles being allowed on UK roads. Most have focused on an increase in the weight limit to 66 tonnes but some have even suggested that 100-tonne lorries, commonly referred to as 'supertrucks', might be permitted.

The European legislation controlling the maximum dimensions or weight of vehicles permits trials and the use of these vehicles under certain strict conditions. The legislation is also the subject of a review by the European Commission to consider whether such vehicles should be part of the Freight Transport Logistics Action Plan to improve the efficiency of transport and logistics in the EU by 2010. In the UK, applications from two hauliers, each wishing to trial a longer, heavier vehicle, were refused in 2005.[168]

In October 2006 the Department for Transport commissioned the Transport Research Laboratory (TRL) and Heriot-Watt University to undertake a 'desk-based study' to assess both the benefits and disbenefits that could conceivably arise from the potential use of different types of longer and heavier goods vehicles. In June 2008 the Secretary of State announced that the Government would not permit 'supertrucks' on UK roads.[169] The report concluded that:

> A blanket decision to permit 60 tonne vehicles with more than one trailer for general haulage would present a substantial risk of adverse environmental effects mainly because of likely mode shift from rail to road, especially in the deep sea container market. If such multi-trailer vehicles were restricted to around 50 tonnes, or less, the likely magnitude of mode shift would be much reduced and largely confined to the deep sea container market. The risk of adverse environmental affects would, therefore, be much lower (…)
>
> If further consideration is given to permitting these longer articulated vehicles then more detailed study may be necessary to:
>
> a. validate the costs and benefits with respect to uptake by the industry, the effects of small (payload neutral) weight increases, legal issues, safety, manoeuvrability, and the effects on current and future rail markets; and
>
> b. assess whether additional worthwhile benefits could be achieved, relative to existing vehicles, by variations to the length, height and configuration of the longer semi-trailer.[170]

167 HM Treasury, *Budget 2000*, HC 346, March 2000, paras 6.69-6.71: http://www.hm-treasury.gov.uk/budget/budget_2000/budget_report/bud_bud00_repindex.cfm; implemented by the *Road Vehicles (authorised weight) (amendment) Regulations 2000* (SI 2000/3224)

168 DfT, *The Road Haulage Forum meeting: note of discussions*, December 2005: http://www.dft.gov.uk/pgr/freight/road/rhf/theroadhaulageforummeetingde3234

169 DfT press notice, "'superlorries' not permitted on British roads – Kelly", 3 June 2008

170 TRL, *Longer and/or Longer and Heavier Goods Vehicles (LHVs) – a Study of the Likely Effects if Permitted in the UK: Final Report* (PPR 285), June 2008, pp86-87: http://www.parliament.uk/deposits/depositedpapers/2008/DEP2008-1410.pdf

7.3 Views of the industry and opposition parties

As stated above, in the section on drivers' hours, one of the recommendations of the Burns Inquiry was that VOSA enforcement resources should be extended and focused on drivers' hours and weight checks with transparency of data across Europe. It stated that in 2004 VOSA stopped only one percent of foreign vehicles visiting the UK, but that foreign lorry drivers were more than one and a half times as likely to be overloading their vehicles.[171] The RHA was 'disappointed' about the Government's decision not to allow supertrucks on UK roads:

> "We clearly recognise that this is a difficult issue", said RHA Chief Executive, Roger King, "but we do think this is a missed opportunity for a proper trial to have been staged in order to study the impact such trucks would have on UK roads. The Secretary of State has raised environmental concerns and fears that rail would lose out but other EU countries don't seem to have experienced this where trailed schemes have been conducted".
>
> The RHA believes longer, heavier vehicles would only have had limited application on designated routes and at certain times of the day.
>
> "But they could have played a role in lowering CO2 emissions by reducing HGV movements. Sadly, it seems now we will never know", concluded Roger King.[172]

The FTA also criticised the decision:

> FTA says that rejection of the prospect to move more goods on fewer vehicles, with all of the economic, environmental and safety benefits which could be achieved, is a sadly negative and blinkered decision at a time when rising oil prices and concern for climate change are so high on the national agenda (…)
>
> FTA Director of Policy James Hookham said, 'If CO2 savings are the single most important factor in the Secretary of State's decision, then she has just kicked into touch the most effective means of achieving double-digit carbon savings in the road freight sector. The report has rightly identified enormous complexities, including the risk of a shift in freight movements from road to rail. However, all she had to do was to talk to the logistics industry in order to sort out how any downside could be prevented and how to take maximum advantage of the major benefits in prospect. This decision will set a difficult tone regarding how carbon savings can be achieved in the road freight sector in the future.'
>
> FTA says that longer heavier vehicles would have generated substantial cost savings and reduced carbon emissions by up to 30 per cent on trunking operations as a consequence of replacing three of the present heaviest vehicles with two of the proposed vehicles. They would have been particularly efficient when used for the movement of containers or of goods of relatively light weight but large capacity. These vehicles are already being successfully used elsewhere in Europe.[173]

As to the opposition parties, the Conservative Transport Spokesman, Robert Goodwill, said in the House in April 2008 that the Party had "not come to a view on longer heavier vehicles".[174]

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[171] op cit., *The Burns road freight inquiry*, p60
[172] RHA press notice, "RHA disappointed at decision on Longer, Heavier Vehicles", 3 June 2008
[173] FTA press notice, "Longer, heavier lorry decision - lost opportunity for carbon savings", 3 June 2008
[174] HC Deb 22 April 2008, c1171

The Liberal Democrats Transport Spokesman, Norman Baker, said: “The Government has finally bowed to pressure and taken the right decision. Allowing 60 tonne 'super lorries' would damage the roads, the environment and compromise road safety. But banning 'super lorries' is not enough. The Government must now look at how we can shift more freight off road and onto rail”.[175]

7.4 Costs associated with weight allowances

Larger lorries should be able to deliver scale economies as fixed costs (especially those of the driver) tend not to increase with size. The Freight Transport Association has estimated that the cost per mile per tonne of payload for a fully laden 44 tonne lorry in 2007 were 6 pence and these rise to 11 and 62 pence per mile per tonne for 17 and 3.5 tonne vehicles respectively. The FTA has also estimated that a 44 tonne lorry can deliver ten times more freight per mile of road space as 3.5 tonne vans.[176]

[175] Liberal Democrats press notice, “Banning super lorries is not enough – Baker”, 4 June 2008
[176] FTA, *Road freight cost drivers*: http://www.fta.co.uk/about/about-the-industry/cost-drivers/