



Our Ref: JP/GFP/000904

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Department for Transport
Zone 2/23
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Dear Ms Wake

Graduated Fixed Penalty and Deposit Scheme & Enforcement of Drivers' Hours Rules

Thank you for inviting us to comment on your consultation paper, which we note is aimed at introducing:

- a scheme of graduated fixed penalties for offences relating to operating rules for commercial vehicles
- a deposit scheme to ensure non-UK resident drivers do not escape penalties
- VOSA and The Police as operators of the above schemes
- Provisions to ensure the continued effective enforcement of the driver's hours rules

The BVRLA and its Members recognise that the existing framework of penalties for traffic and roadworthiness offences does not represent a sufficient deterrent. We also recognise the importance of implementing a scheme that reduce bureaucracy and demonstrates consistence and transparency in penalties. We also support the proposals to prevent those offenders without a UK address escaping penalties especially with the increase in foreign hauliers driving in the UK.

Contract Hire Members

In general, contract hire, sometimes referred to as long term rental, is technically an operating lease which, when stripped down to its core component, the user (the hirer) simply hires the use of the vehicle for a predetermined period at fixed monthly rental from the owner (the contract hire company).

As ownership is retained by the contract hire company, the contract hire company has no liability for the actions of the user, such as parking or speeding penalties incurred whilst in charge of the vehicle. In general, the contract hire company is able to legally transfer liability on to the user.

Rental Members

Rental Members offer daily, weekly and monthly rental of vehicles to corporate and retail customers. Again, as above, they have no operational control over the use of their vehicles and have the ability to legally transfer liability for parking charges¹ and other non-endorsable traffic offences² on to the user.

¹ Road Traffic Offenders Act 1988/Road Traffic Act 1991

² Traffic Management Act 2004

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As explained above, the contract hire and daily rental Members are the owners of the vehicle, but are not responsible or in any way accountable for the actions of the driver. We would welcome the Department's assurance that such liability rests with the user and as such our Members will be able to transfer liability as they currently do with other road traffic offences, which has been recently endorsed by the Traffic Management Act.

Specific Questions

Graduated Fixed Penalty and Deposit Scheme

1) Do you agree with the *principle* of introducing a Graduated Fixed Penalty, for commercial vehicles in the first instance?

We agree with the principle of introducing fixed penalty notices to cover the offences mentioned in the consultation document and agree this would be a less bureaucratic and more effective enforcement process.

However, we have some concerns with regards to offences detected remotely and on to whom the fines would be issued upon. As explained above our Members are the registered keeper of the vehicle, however, they are not the day to day operator of the vehicle. We would expect any scheme where fixed penalty notices are issue to include the ability for our rental Members to transfer liability and our contract hire Members to demonstrate that keepership has been disposed of.

2) Do you agree with the *principle* of introducing a Deposit Scheme, for commercial vehicles in the first instance?

We agree with the principle of introducing a deposit scheme as it seems only fair that non-UK residents do not escape fines for committing offences in the UK.

3) Do you agree with the proposals relating to the roles of the Police and the Vehicle Operator and Services Agency in applying the schemes at the roadside?

We agree with the proposals to allow both enforcement agencies to issue fixed penalty notices. This seems a sensible approach which allows for a streamlined processes and should make enforcement easier to understand for Members and their customers.

Drivers' Hours

4) Should the Government make changes to Section 99 of the Transport Act 1968 to clarify the inspection powers of enforcement agencies?

Our Members in most cases are not subject to the drivers' hours rules and therefore this changes would have little impact on their business.

Closing Comments

You will see that our Members while generally supportive of the changes would have concerns with any increase in administration that could be caused by fines being issued to our Members who are not the day to day operators of the vehicles.

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We welcome the opportunity to continue our constructive dialogue and would suggest that our experience with other fine regimes will be invaluable for assisting you in putting in place a robust enforcement process.

***Bona-fides* BVRLA, the Industry and its Members**

- The BVRLA is the representative trade body for the companies engaged in the operating leasing of cars and commercial vehicles. Its Members provide short-term self-drive rental, contract hire and fleet management services to corporate users and consumers. BVRLA Members operate a combined fleet of 2.3 million cars, vans and trucks of widely differing sizes from 3,300 locations throughout the UK.
- BVRLA Members provide a vital service to UK industry and commerce, facilitating the movement of goods and people for essential business purposes.
- BVRLA Members supply and provide over 300,000 commercial vehicles out of which 75,000 are heavy goods vehicle over 7.5 tonnes. This equates to circa 23% of all new commercial vehicle registrations in the UK.
- Together the Rental, Leasing and Commercial Vehicle Membership provide the significant voice of an industry, which purchases almost half the personal, and company transportation in the United Kingdom. This is combined with the diversity of BVRLA Members to create a unique organisation where one Association represents three combined sectors allowing Members to share representation on committees and in the activities of the BVRLA.
- BVRLA Members subscribe to a Code of Conduct which sets out stringent standards in terms of the operation of vehicles and the commercial propriety of Members. The BVRLA adopts a strict process of vetting applications for Membership.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Jay Parmar', is written over a light blue circular watermark.

Jay Parmar
Head of Legal Services