



# Truck Tag System Consultation Submission Summary Report

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## Introduction

## Background

- 1) The 2014 Lower Mainland container trucking work stoppage ended upon the signing of the Joint Action Plan. Following the signing of the Joint Action Plan and the tabling of a report authored by Vince Ready and Corinn Bell, the Province of British Columbia enacted the *Container Trucking Act* and *Container Trucking Regulation* on December 22, 2014 (Reg. Amended March 13, 2015).
- 2) The *Container Trucking Act* created a BC Container Trucking Commissioner whose functions include the issuance and management of Container Trucking Services Licences (CTS Licence). Each licence is assigned a number of Truck Tags. Holders of a CTS Licence may choose to assign the Truck Tags associated with the licence to either fleet trucks (driven by company employees) or trucks owned and operated by Independent Owner Operators (I/O's).
- 3) I/O's are allocated a Truck Tag by a licensee upon signing a CTS Licence Sponsorship Agreement. Under the CTS Licence Sponsorship Agreement, if the Sponsorship Agreement is terminated by an I/O, the associated Truck Tag is retained by the Licensee (and must be filled within 45 days). Conversely, an I/O whose Sponsorship Agreement is terminated by a Licensee has 45 days to move with the Truck Tag to an alternate sponsor.
- 4) The Truck Tag and Sponsorship regime associated with the CTS Licence is a product of Truck Licencing System ("TLS") reform which was also committed to under the Joint Action Plan. As one submitter to this consultation highlights, the goal of TLS reform was to create a more stable industry, in part through a reduction in and on-going management of the number of Truck Tags available to service the Port of Vancouver. A reduction in the overall truck fleet was agreed to by all participants in TLS reform following consensus that there were too many container trucks vying for too little work, leading to industry instability and downward pressure on trucker remuneration.
- 5) The Office of the BC Container Trucking Commissioner (OBCCTC) notes that in order to achieve greater industry stability, TLS reform activity also focused on ensuring greater accountability on trucking companies for the activities of their driver employees and I/O's. Greater licensee responsibility for drivers was balanced with the granting of greater autonomy to licensees to manage their relationships with drivers. This autonomy was achieved by eliminating TLS I/O Permits and introducing Sponsorship Agreements as part of the TLS reform process.
- 6) Despite previous consultation and reform activities, the allotment and movement of Truck Tags continues to be an issue of focus in the industry.



- 7) Licensees have raised concerns with the OBCCTC that they are restricted in making decisions regarding sponsorship termination due to the loss of a Truck Tag. I/O's have raised concerns about their ability to change sponsors.
- 8) In response to stakeholder concerns, the OBCCTC, on January 18, 2017, issued a call for submissions seeking input from stakeholders on possible reform measures to the Truck Tag System. On March 14, 2017 the OBCCTC indicated that as part of its Truck Tag System Consultation, it was seeking the consulting services of an independent, third-party transportation specialist to assess and make recommendations on the performance of the Lower Mainland drayage industry with particular focus on the development and operation of a Truck Tag system. The OBCCTC intends to consider the recommendations arising from this study with the input received from the Truck Tag System Consultation, which is summarized below.

### **Truck Tag System Consultation – Scope & Focus**

- 9) The OBCCTC sought submissions from stakeholders which addressed one or more of the following terms of reference:
  - Facilitation of reasonable I/O movement to available work;
  - Incorporation of performance metrics when determining a Licensee's Truck Tag allotment; and
  - Respect for the Vancouver Fraser Port Authority's (VFPA) container truck requirements.
- 10) The closing date for submissions to the OBCCTC's Truck Tag System Consultation was March 31, 2017 (extended from March 1, 2017). The OBCCTC received fifteen (15) submissions from licensees, drivers and shippers as well as organisations representing labour, trucking and port interests.

### **Key Issues Raised in Submissions**

- 11) Submissions received by the OBCCTC focused on three main areas:
  - I/O movement;
  - The use of performance metrics in assessing tag allotment; and
  - The impact of VFPA truck age policy on the Truck Tag System.

### **I/O Movement**

- 12) Drivers and driver representative organisations provided submissions to the OBCCTC which were focused primarily on the ability of I/O's to move to available work. An I/O's ability to secure enough work is directly linked to income and an I/O's ability to cover the cost of truck ownership and operation. I/O's submitted that any company which cannot supply enough work for its I/O's should lose drivers, through I/O movement, to companies which can provide an adequate amount of work.



- 13) Section 8 of the Sponsorship Agreement was identified as the mechanism which undermines freedom of movement for I/O's and is having the unintended consequence of impacting licensee and I/O behaviour. I/O's contend that the termination trigger in Section 8 influences licensees to treat its I/O's poorly and/or not provide enough work to I/O's in an attempt to force an I/O to quit, ensuring that the associated Truck Tag stays with the licensee.
- 14) Concerns regarding Section 8 were also voiced by labour representatives who believe that Section 8 specifically, and the sponsorship system generally, does not allow I/O's the freedom to make decisions about which company to work for and provides no incentive for licensees to compete to hire the best I/O's.
- 15) Conversely, licensee's identified Section 8 as a destabilizing factor in the industry which has the potential to impact driver productivity. Licensees contend that some I/O's choose to engage in behaviour which forces the licensee to terminate their Sponsorship Agreement. Licensees in these circumstances are forced with the choice of retaining an I/O who may be performing poorly or lose a Truck Tag. Such circumstances, it was argued, impact management's right to discipline drivers for bad behaviour.
- 16) Section 8 may also be impacting the safety obligations and requirements of licensees under the National Safety Code and Division 37 of the BC Motor Vehicle Act Regulations, both of which require carriers to have and follow a remedial disciplinary policy regarding driver on-road behaviour as part of their safety plan. It was argued by licensees and others that Section 8 could be providing an economic incentive to ignore non-compliant I/O activity/behaviour in order to maintain a Truck Tag allotment.
- 17) Generally, there was consensus amongst all submissions that I/O's should be able to move to available work. Licensees went so far as to suggest that an on-line system be established in order ease the administrative burden of approving Truck Tag movement. However, stakeholders remain divided on the question of who retains a Truck Tag as evidenced by the above recommendation which focused on licensee use of the on-line Truck Tag to add or remove I/O's from their licence's Truck Tag allocation.
- 18) I/O's and their representative organisations advocated for a the assignment of Truck Tags to I/O's, effectively creating a new class of licence paid for by I/O's and issued by the OBCCTC. In addition, it was suggested that a moratorium be placed on new company and I/O entrants into the system while the total number of trucks in the system be closely monitored to prevent an oversupply of trucks.
- 19) Some licensees believe that they pay for Truck Tags and should not lose a Truck Tag under any circumstance for the period the Truck Tag remains valid and is paid for by the licensee. Others did not take issue with I/O's moving provided the licensee is compensated (through a proration of licence fees) for the loss of the tag. One submission suggested that I/O's should contribute to the cost of each Truck Tag.



## Summary

- I/O's need the ability to move to available work
- Section 8 of the Sponsorship Agreement is impacting I/O and licensee behaviour
- Section 8 of the Sponsorship Agreement is being linked to National Safety Code and BC Motor Vehicle Act Regulations requirements
- I/O's wish to be assigned Truck Tags in a manner similar to the issuance of licences
- Licensee's seek to retain the Truck Tags or be compensated for their loss

## Performance Metrics

- 20) The use of performance metrics in assessing Truck Tag allotment was addressed by one submission which supported an industry wide review of the current number of Truck Tags in the system to ensure that future Truck Tag allocation across licensees accurately reflects the amount and distribution of existing drayage work in the industry.
- 21) Licensees believe that Truck Tag reform should be separated from Truck Tag re-allocation in order for current Truck Tag allocations to continue going into 2017 CTS licensing renewal process. One licensee supported the use of Truck Tag utilization metrics to identify underutilized tags and the redistribution of underutilized tags to licensees with high utilization. This submitter pointed out that the current Truck Tag system is having an adverse impact on a licensee's ability to grow their business due to the availability of additional tags, while another submission called for the immediate issuance of a new tag to a licensee when an I/O moves.
- 22) However, licensees also wish to see a review of the VFPA balanced scorecard to ensure that the metrics summarized on the scorecard accurately represent individual licensee fleet efficiency or productivity. Labour representatives pointed out that utilization of a Truck Tag, while important, is not the only metric which should be considered when considering issuing truck tags to licensees. Greater support for the facilitation of double ended container moves and the day/night gate metric were cited as factors that have the potential to impact performance metrics.
- 23) Rather than review the VFPA balanced scorecard, one submitter suggested that greater knowledge of and comfort with a system of performance review may be the way to facilitate licensee participation in Truck Tag allotment. For example, it was noted that licensees should be encouraged to fill vacant Truck Tags in a timely manner or voluntarily release vacant Truck Tags to avoid negatively impacting a licensee's performance metrics. If, it was suggested, licensees experienced the issuance and removal of Truck Tags on a consistent basis then the level of voluntary activity in the system would increase. To facilitate the voluntary release of Truck Tags, it was recommended that licensees that do so should be granted increased consideration when they apply for more Truck Tags following an increase in business volume.
- 24) It was further submitted that licensees should be asked to apply for additional Truck Tags only on specific dates, possible quarterly or bi-yearly. This would allow for a flexible Truck Tag adjustment process as well as introducing certainty for licensees to solicit new business with the confidence that doing so will result in additional Truck Tags issued at specific times.



- 25) At the same time, it was recommended that the OBCCTC maintain on its website a list of licensees with unfilled, available Truck Tags in order to facilitate I/O movement.
- 26) Licensees are also seeking more flexibility within their existing Truck Tag allotment. Submitters sought the ability to move Truck Tags to other compliant, pre-approved trucks within a licensee's fleet in order to account for sponsored I/O's that are assigned a tag but unable to provide container trucking services for their sponsor. I/O unavailability was said to impact Truck Tag utilization on the basis of a number of factors including:
- National Safety Code driving time requirements vs terminal gate opening hours;
  - I/O availability due to a range of factors including vacations, leaves of absence, discretionary work scheduling, injury/sickness, personal/family matters and truck maintenance requirements; and
  - Dispatching based on driver seniority (in the case of unionized licensees).

### *Summary*

- Separate the OBCCTC's current Truck Tag reform process from the process of Truck Tag allocation until the completion of the current reform process and the 2017 CTS Licencing renewal process
- Once the current Truck Tag reform and CTS Licencing processes are complete, either review the VFPA's balanced scorecard or employ the scorecard in order to facilitate licensee participation in Truck Tag re-allocation and ensure underutilized Truck Tags are assigned to licensee's with high fleet utilization
- Only issue additional Truck Tags on specific dates during the year
- Publish on the OBCCTC website a list of licensees with unfilled, available Truck Tags in order to facilitate I/O movement
- Allow the movement of Truck Tags to other compliant trucks within a licensee's fleet

### **VFPA Truck Age Policy – Impact on Section 8 of Sponsorship Agreement**

- 27) The OBCCTC's CTS Licence is issued in conjunction with the VFPA's Access Agreement. As such, there is potential for individual OBCCTC and VFPA policies to impact the operation of the collective system. In the case of Truck Tags, VFPA truck age policy impacts termination under Section 8 of the Sponsorship Agreement. Specifically, if an I/O terminates a Sponsorship Agreement and moves to another licensee/available tag, their truck is not treated as an existing TLS approved truck for the purpose of the VFPA truck age policy.
- 28) For I/O's whose trucks meet VFPA truck age policy requirements, this is not an issue. For those I/O's with trucks that do not meet the requirements, the decision to move companies is impacted by the need to purchase a truck which meets the truck age requirements.
- 29) While there was general support for VFPAs environmental standards, the majority of submissions received by the OBCCTC referenced this issue and broadly supported a policy which would allow I/O's currently in the system to maintain their TLS approved truck status regardless of movement between licensees.



30) One submission supported the movement of existing I/O's (and their TLS approved truck) within the fleet without regard for who terminated the Sponsorship Agreement for a period of 45 days, effectively ensuring that an I/O, upon Sponsorship Termination, had 45 days to sign a new Sponsorship before being subject to VFPA truck age policy.

*Summary*

- Allow I/O's currently in the system to maintain their TLS approved truck status regardless of movement between licensees; or
- Allow the movement of existing I/O's (and their TLS approved truck) within the fleet without regard for who terminated the Sponsorship Agreement for a period of 45 days