



CONSUMER COUNCIL OF FIJI

**A Submission to the  
Land Transport Authority**

**Land Transport (Omnibus Electronic Fare Ticketing)  
(Amendment) Regulations**

June 2013

## **1.0 Introduction**

The Consumer Council of Fiji welcomes the amendments to the Land Transport Regulation to account for the introduction and establishment of the electronic ticketing system for buses. The Council has firmly supported the e-ticketing system and this has been its stance since the 2009 Orion report on the Fiji Bus Industry Review. E-ticketing has been introduced as one of the means of preventive revenue leakage in the bus industry and ensures there is transparency in revenue reporting by bus operators. It will allow the Government, LTA and other regulatory agencies to make more accurate assessment of an operator's revenue /financial status. Consumers will also benefit as their taxes will not go towards subsidising the bus sector or bus fares will not go up because of poor financial performance. The bus industry claims to lose about \$7million through pilferage by mostly drivers and operators have regularly claimed that costs are spiralling while revenue is dropping. E-ticketing will ensure better revenue recording as compared to the unreliable cash system. It will bring about much needed accountability and transparency in the industry that has been lacking for decades. An import aspect of e-ticketing that the Consumer Council is very content with the fact that it will allow a more transparent and information-rich receipting system. This will enhance the redress process for consumers and bring about higher level of fairness when it comes to disputes between a fare-paying passenger and the bus driver/operator.

### **1.1 Role of Consumer Council of Fiji**

The Council has statutory obligations under the Consumer Council of Fiji Act (Cap 235) to “*to do all such acts and things which it may consider necessary or expedient to ensure that the interests of consumers of goods and services are promoted and protected.*” The Council is also obliged to advise and make recommendations to the Minister responsible for consumer affairs in Fiji or any other Minister on issues affecting the interests of consumers. This work extends to providing advice and making submissions to regulatory agencies, policymaking bodies, private sector or industry groups and international agencies. The Council is a key stakeholder in the formulation of policies, legislations and standards in the country. As the Council is often in the frontline and first point of contact for consumer grievances, it has a strong mandate from consumers to express their viewpoints on their behalf. This submission is part of the Council's fulfilment of our legal mandate.

### **1.2 Regulations for e-ticketing**

The Council fully supports appropriate regulations for the e-ticketing system to ensure fairness to all parties – consumers, bus operators, LTA, solution providers and others. The Council believes that the regulations must incorporate consumer redress principles so that bus users are provided with the best level of protection. It is within this context that the Council makes its submission on the draft *Land Transport (Omnibus Electronic Fare Ticketing) (Amendment) Regulations*. The Council also believes that the LTA should have provided a fair time period to allow stakeholders to make their submission. The regulations can only be effective and achieve its intentions if it is subjected to thorough scrutiny by stakeholders in a timely manner.

## **2.0 Council's view on the draft *Land Transport (Omnibus Electronic Fare Ticketing) (Amendment) Regulations***

### **2.1 Faulty cards**

The regulations do not clearly define what “faulty” (Regulation 26 - *Minimum Standards Requirements - 2.5 REPLACEMENT OF FAULTY SMART CARD*) means. The Council seeks clarification on what “faulty” denotes. Cards that have been deemed faulty from the supplier end should be entirely the responsibility of the solution provider. The Council notes for example in 2.5.2 *Subsidised student* the student is only entitled to three (3) replacement card within a period of twelve (12) months without incurring any costs or charges. The Council seeks clarification on why should there be such a limitation if the fault is from the supplier's/solution provider's end? The regulations should clearly define “faulty” as pertaining to manufacturer's or solution provider's fault and a separate term (e.g. “user damaged”) as originating for the consumer's mishandling or misuse.

### **2.2 Smart card**

The meaning of “smart card” should be expressed in the regulations

### **2.3 Trust Account (Regulation 20 – 21)**

#### **2.31 Interest on Trust Account funds**

The Council submits that any interest from the trust account held by a Solution Provider on funds collected in exchange of e-money should be remitted to the Consumer Council of Fiji to be used under the proposed Consumer Protection Decree. The Decree will create a statutory Consumer Welfare Fund in which all court fees paid, penalties levied by the Tribunal and any other refunds due to unascertainable consumers shall be credited. Such Fund shall be made available to registered consumer organizations and NGOs working for the benefit of consumers for any specific projects of consumer education or consumer protection. The Government may consider transferring unclaimed deposits of bank depositors after expiry of the statutory limitation period of 10 years and after expiry of the time limit given in the mandatory Public Notice. Government may also explore possibilities of transferring unclaimed VAT refunds of foreign tourists. (A preliminary meeting with FRCA officials revealed that there would be a substantial amount of such unclaimed VAT refunds.)

**2.32** The Council seeks clarification on Regulation 21 *Payment of funds from trust account*. This section reads that funds from the trust account established in S20 “shall only be used for refund payments to users”. The regulations is not clear on the nature of this “refund payment to users”. We seek clarification on what this means.

**2.34** The Council seeks clarification on Regulation 23(4) which requires that solution providers...*in respect of each financial year, cause the trust accounts, accounting and other records to be audited by the auditor and a copy of the auditor's report shall be*

*submitted to the Attorney-General within 2 months after the end of the financial year. The “the auditor” is not defined or specified. Does this mean any auditor? Furthermore, we seek clarification on why the auditor’s report has to be submitted to the Attorney-General.*

## **2.4 Fees and Charges (Regulation 25)**

The Council seeks clarification on the meaning of this clause: *For the purposes of these Regulations, the Minister shall have the power to prescribe fees and charges. Are these “fees and charges” applicable to consumers/bus users or are these relevant only for solution providers?*

## **2.5 Regulation 26 – MINIMUM STANDARD REQUIREMENTS**

### **2.51 1 ACCREDITATION, 1.2**

*An applicant must ensure that every smartcard reader is Fiji Pattern approved and certified by the Director appointed under the National and Trade Measurement Decree 1989 prior to submitting an application for accreditation to LTA. The Council seeks clarification on the meaning of “Fiji Pattern”.*

### **2.52 ISSUANCE OF SMARTCARDS (2.1) – Colour coded cards.**

Colour coded cards – The Consumer Council supports the concept of coloured cards to distinguish between the different category of cards issues by solution providers, e.g. student cards should have a different colour. Colour coded smartcards would assist drivers in distinguishing between the different applicable fares and to apply the correct fare when inputting fare amount on the console.. It would help minimise driver errors and also ease the congestion/queue that is created when passengers board buses.

### **2.53 REPLACEMENT OF FAULTY SMARTCARDS (2.5)**

The Council objects to the three (3) faulty smartcards replacement system (2.51-2.5.3) There should be not limits to the replacement of faulty cards where he fault and responsibility for faulty cards lie with the solution provider.

### **2.53 CERTIFICATION OF SMARTCARD READERS BY LTA (5.6)**

*Once the Solution Provider attains the above approval from the Department of National Trade Measurement and Standards, the Solution Provider must then apply to LTA for certification before the smartcard reader can be used.LTA shall verify and test the smartcard reader as part of the Certificate of Fitness inspection. LTA shall issue its certification once all inspection and testing criteria have been met.*

The Council seeks clarification on the above paragraph. The Department of National Trade Measurement and Standards is supposed to be the certifying authority of the smartcard readers rather than the LTA. The LTA is supposed to be the accreditation authority on the use and application of the smartcard readers.

## **2.54 BUS BREAKS DOWN (5.13)**

*In the event a bus breaks down, the passengers must be allowed to travel on other arranged buses without any additional costs or charges.*

The Council submits that this should be amendment to allow **choice** for the passengers/consumers. Passengers are travelling to important events such as work, shopping, medical/health matters, other personal business etc, time is an important factor. Passengers cannot be made to wait for hours for other arranged buses particularly when the point of breakdown may be far from the bus operators' garage. The Council proposes that consumers should be given the choice of either waiting for bus operator's arrange buses or be refunded their bus fare to allow them to seek alternative buses or transportation.

## **2.55 SOLUTION PROVIDERS (6)**

*6.5 Solution Providers shall have a minimum of 1200 top up agents throughout the country as follows –*

The Council submits that Solution Providers must provide e-ticketing outlets at all main bus stands or bus terminus. Since the introduction of e-ticketing, consumers have been greatly inconvenienced by the absence of e-ticketing outlets at the main bus stations.

## **2.56 DATA ACCESSIBILITY AND PROVISION (9)**

*9.2 The Fiji Commerce Commission shall only access data for the establishment or review of fees and charges related to the Omnibus Electronic Fare Ticketing System and this shall be provided to them by the Solution Provider upon the approval of the Chief Executive Officer of LTA following a written request made by the Fiji Commerce Commission.*

The Council seeks clarification on the above. Does this apply to passengers/consumers or Solution Providers?

## **2.57 BLACKLISTING (15)**

*15.1 Blacklisting of smartcards must happen across all consoles within 10 minutes of receiving the proper and valid notification.*

The Council recommends that this clause expressively state to whom should passengers/consumers notify the loss or theft of their cards for the purpose of blacklisting. There should also be a standard that requires whichever party (solution provider etc) to whom the notification is make a record of notifications for verification purposes. A record of such notification by the consumer will assist in any disputes where a solution provider may claim to not have received a notification or vice versa in the case of the consumer.

**For further information contact:**

Research & Policy Analysis

Consumer Council of Fiji

Phone: 3300792, Fax: 3300115

Email: [manager\\_rpa@consumersfiji.org](mailto:manager_rpa@consumersfiji.org)

Web: [www.consumersfiji.org](http://www.consumersfiji.org)

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