

The Roger Award



Winner 2000

Tranz Rail

**Organised by
GATT Watchdog
Campaign Against Foreign Control of Aotearoa**

ROGER AWARD 2000 STATEMENT FROM THE JUDGES

The judges of the Roger Award for the Worst Transnational Corporation Operating in 2000 in Aotearoa/New Zealand consider they had an extremely hard task, with all 6 finalists demonstrating a very poor record on some of the areas considered in the criteria - including monopoly exploitation, creating unemployment and abuse of workers who remain, impact on tangata whenua, and health and safety of workers and the public. All richly deserved their nominations. The six short listed companies include two who have the ignominy of winning the award in earlier years, Tranz Rail in 1997, the inaugural year, and TransAlta in 1999, while Monsanto was selected in 1998. The judges expressed dismay that several TNCs have been nominated and become finalists on more than one occasion - they are recidivists failing to take heed of bad publicity and public reaction to their behaviours. We will discuss the behaviour of each company in turn, working up to the winner of the award.

First, BP and Westpac, each representative of industries, oil and banking, in which all firms have questionable practices, but with these particular companies seen as standing out. BP is one of the largest firms in a highly concentrated industry where proportional cost plus pricing ensures effortless increases in margins as overseas crude oil prices rise. Competition in the industry is over market share through excessive advertising, rather than over price (except for occasional cut-price raids), with

such competition masking the oligopolistic power of the major companies and at least tacit collusion between them. Lobbying for policies which would lead to excessive use of motor vehicles, such as reduced road user charges, endangers the environment. Westpac makes huge profits while ratcheting up bank fees - especially for low income customers. It was the first bank in New Zealand to charge customers a fee to use another bank's ATM. Like other banks, it now charges for telephone banking, having closed many local branches with staff job losses. Staff are being required to urge customers to use telephone banking and so make themselves redundant. Such downsizing and closures particularly impact on women who make up the bulk of front line staff, have their jobs intensified, and become subject to abuse from customers because of the reduction in service which is no fault of their own. Further closures are anticipated.

Turning to Shandwick, this is of course the public relations company hired by Timberlands, with public money, to manipulate public opinion with respect to native logging on the West Coast. The dirty tactics of all types adopted by Timberlands are brilliantly exposed in Nicky Hager's book, *Secrets and Lies*.

Now to TransAlta, which may perhaps have learned a little from its mistakes and winning the 1999 Roger Award - it has recently changed its name and reduced some prices. However, in 2000, its profiteering and lack of focus on customers and service, particularly for small consumers, together with excessive use of low paid contract workers and discouragement of energy efficiency, makes it still a worthy finalist.

Runner-up: British American Tobacco

This leaves two companies, and this year, the judges decided to select a runner up as well as a winner because they were hard to separate and each had support. The runner-up is British American Tobacco. The whole tobacco industry richly deserves the opprobrium it receives for attempting to recruit young people, and particularly young Maori, to smoke this addictive and harmful drug to replace the profits from those wisely giving it up. The industry also continues its propaganda campaign which pretends that tobacco's harmful effects are less than the evidence clearly shows.

Smoking is estimated to cause as many as 4,700 premature deaths each year in Aotearoa according to submission from the Smokefree Coalition. What singles out BAT in 2000 is its near monopoly position, created by the international merger with Rothmans. In New Zealand, the Commerce Commission has not yet approved this merger, and is investigating the anti-competitive impacts of the 80% market share which would be created. However, the company is flouting the legal process by operating virtually as a single company already - and if it is eventually approved, competition in the industry will be dead.

Winner - Tranz Rail

By now, you will have realised by elimination that the winner must be Tranz Rail, the first TNC to have the ignominy of winning this award twice. It was selected because it scored badly on so many criteria. The judges considered that its ongoing appalling safety record was inexcusable, a view shared by government which launched a ministerial inquiry into its safety procedures during 2000. Two Christchurch workers died in a week in May, with 5 dying countrywide in only 7 months. Tranz Rail itself admitted failing to minimise harm to seafarers in a training exercise on the ferries which caused the death of 19 year old Nigel Cooper and injuries to three others. Just last week, Tranz Rail pleaded guilty to two OSH charges in connection with another of the deaths. Meanwhile 'downsizing' and inadequate maintenance of rolling stock leads to overwork and danger for employees who remain, with increasing breakdowns and delays for passengers.

Concern for nothing beyond the bottom line of profit also weighed heavily with the judges. Tranz Rail is currently engaged in a plan to reduce its services and workforce through asset stripping, and confining its operations to creaming off the few freight, intercity and ferry lines that can make large profits. In the past it has taken subsidies from local authorities to maintain suburban services: now it is unwilling even to do that, leaving others to worry about minimum rail services for the public and the prob-

lem of even more traffic poured onto inadequate roads. Cross subsidy has become a dirty word and Tranz Rail is oblivious to the impacts on public safety and the environment of diversion of freight and passengers to the roads. The people of Gisborne and Rotorua will welcome this award, together with users of the Wellington to Hutt Valley route, though they would rather retain full services. So will the people of the Marlborough Sounds. Tranz Rail's lack of concern for the environment when profit and competition is involved was another factor in its selection, exemplified by the attempt to obtain speed limit exemptions for fast ferries with little concern for the impacts on the environment.

Tranz Rail has consistently indulged in asset stripping of undervalued resources, over-using them without replacement. Its monopoly position in an essential industry makes them secure about resale price, despite the decreased value of the capital stock. Government is then left with little option but to inject capital after foreign owners and local major shareholders have together divested the country of assets and economic control, moving most of the funds from profiteering level profits offshore. In the last week, Finance Minister Michael Cullen has said the Government will step in "to protect the strategic integrity of the rail network". They may try to buy back the lease of all 3904 kms of rail corridors in New Zealand, for which Tranz Rail pays the peppercorn rent of \$1 per year - a deal that currently goes until 2070. In the meantime, they will try to buy out the lease of the Auckland corridors - for less than the \$112 million figure currently under discussion. Tranz Rail's position on this and the other issues raised makes it indeed a deserved and ignominious winner of the 2000 Roger Award.

<p>The judging panel is comprised of: Prue Hyman, Jim Delahunty, and Maxine Gay. The judges statement was presented at a function announcing the Roger Award held in Wellington on 5th April 2001 and organised by CORPWATCH.</p>
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TRANZ RAIL DOES IT AGAIN

In 1997 the Roger Award went to Tranz Rail for what the judges described as its 'calious' and 'calculated' attitude towards its workers. At this time the judges deemed that Tranz Rail had 'abdicated its moral responsibility by putting profits before people'. Today, there is still this "problem at Tranz Rail" (to use the words of the Ministerial Inquiry into Tranz Rail Occupational Safety and Health). Indeed, Tranz Rail seems impervious to its post-Roger Award infamy, for in the four years since 1997 a further 8 workers have died in accidents in a workplace whose fatality record is eight times the national average. As well as killing more New Zealanders than those lost in the Army's deployment in East Timor, Tranz Rail is now seeking to divest itself of its only common-good operation – passenger rail in Auckland and Wellington – as these enterprises are not profitable enough. This divestment may see up to 3,000 jobs lost, and regional councils paying for the repairs to rail infrastructure that Tranz Rail should have - but apparently has not - made over the past eight years.

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According to the Department of Labour, the rate of fatal accidents among Tranz Rail employees is 39.3 deaths per 100,000 employees – a rate some eight times the national average. Since privatisation of New Zealand’s rail system in 1993, the Occupational Safety and Health (OSH) division of the Department of Labour has investigated 22 serious injuries (such as loss of limbs) and fatalities at Tranz Rail. So bad is Tranz Rail’s safety record that a Ministerial Inquiry was held into Tranz Rail’s occupational safety and health record in 2000.

Submissions made to the Inquiry from all parties paint a picture of cost-cutting practices that make a mockery of Tranz Rail’s claim that “safety of staff, customers and the public is the Company’s top priority” (Report to Shareholders 2000). Workers reported being asked to work longer hours, double shifts, and being downgraded to casual worker status which is not covered by the Union contract. Even the consultant Tranz Rail commissioned to report to the Inquiry noted that: “I have a strong impression, however, that other business pressures and priorities have dominated the management agenda and diverted attention from a concerted, company-wide effort to address occupation safety management”. On the basis of the evidence presented the Inquiry found that working at Tranz Rail is characterised by “long hours, reduced staff numbers and pressure to complete work in time”.

The (un)Safety System

The Ministerial Inquiry revealed that Tranz Rail’s safety and health system is largely governed by its own “Approved Safety System”. Prosecution for accidents is only possible if the accident occurred as a result of operations not covered by the safety system, or if Tranz Rail was in breach of its own safety system. This highly irregular regulatory situation is exploited by Tranz Rail to render it largely free of responsibility for accidents by: a) not making its Approved Safety System available to the Rail and Maritime Transport Union (RMTU) and the Occupational Safety and Health (OSH) division of the Department of Labour; and b) by transferring blame for accidents on to

workers such that the company is absolved of responsibility. Thus, OSH reported to the Ministerial Inquiry that “the bottom line is that if one asks to view the ‘Approved Safety System’, Tranz Rail is unable to make it available”- yet it is Tranz Rail’s compliance with this act that forms the basis of any potential prosecution OSH may bring against Tranz Rail. Furthermore, as the body with the strongest commitment to worker safety, it is remarkable that the RMTU had not been granted access to view the Approved Safety Plan until after the Ministerial Inquiry had commenced.

Tranz Rail informed the Inquiry that it was engaged in a struggle to change workers’ practices for the benefit of workers’ health and safety, telling the Inquiry that it has proved a “long and at times frustrating period for managers” as they seek to save the workers from themselves. Indeed Tranz Rail referred to workers’ practices as “ma-cho”, the intention being to lay the blame for the Company’s appalling safety record at the feet of workers. It is not surprising then that the Inquiry noted that Tranz Rail had a “culture of blaming employees for accidents”.

A death benefit-cost analysis

On March 29, 2001, Tranz Rail pleaded guilty in the Christchurch District Court to two charges relating to the death of worker Neil Faithful in 2000. The charges related to breaches of Tranz Rail’s safety code, specifically for failing to check a portion of track identified as being of absolute importance, and to failing to give proper attention to exceedences on a certain section of track. Neil Faithful’s death was avoidable. According to a media report of the charge, “Tranz Rail could be ordered to pay up to \$75,000” (*The Press*, March 30, 2001). With regard to the death of Nigel Cooper in an accident involving a badly damaged release hook on the ferry Arahura in 1999, Judge Dalmer of the Wellington District Court said that a similar accident in 1991 should have been a wake up call to Tranz Rail, but the company failed to act. Mr Cooper’s death was thus avoidable and Tranz Rail was fined \$37,500. At a penalty of \$37,500 per death, Tranz Rail can afford to kill 45% of its staff before losing an operating profit. Small wonder then that the five deaths in 1999-2000 barely register in their 2000 annual report.

Community (un) Safety

Tranz Rail's claim that "safety of staff, customers and the public is the Company's top priority" is further compromised by its minimal expenditure on track maintenance, signaling and safety barriers at crossings. Tranz Rail's refusal to put in safety barriers at crossings where it was necessary contributed to its previous Roger Award. In 1999-2000 the number of full time staff employed on maintaining the safety of capital stock such as track and signals was reduced by 49% (from 433 to 222) - this was an integral part of the 'internal performance' gains for the year. Since 1998 the number of full-time staff engaged in capital works has decreased from 568 to 222 (after Tranz Rail Annual Report 2000).

According to the Rail and Maritime Transport Union (RMTU), Tranz Rail has underfunded facilities maintenance such that "many assets purchased by the company on its establishment in 1993 are now in a much worse condition... with problems showing up in the locomotive fleet, track and signaling renewal programmes" (Media Release March 30 2001). They go on to state that: "track maintenance gangs have been downsized and are under-resourced and are unable to do needed maintenance within operating windows between train movements". The RMTU also reports that since 1993 the former signaling system was replaced with a lower safety-margin system. Tranz Rail's 2000 Annual Report shows that capital spending in 2000 was only 22% of capital spending in 1998 – a reduction from 218.7 million to 49.5 million. Under Tranz Rail, then, New Zealanders are now traveling on a network serviced by less staff, in dangerously under maintained trains, on dangerously under-maintained tracks with downgraded signaling systems – this is the result of Tranz Rail's commitment to "the safety of staff, customers and the public".

After a year of fatalities and accidents, Tranz Rail's two major shareholders – Wisconsin Central International (24%) and Pacific Rail (14%) - have engaged Deutsche Bank as financial advisers to explore the sale of their shares. A sign perhaps that Tranz Rail's infrastructure has passed a threshold of (un)safety such that public liabilities and damages will increasingly detract from profitability? (Note: Wisconsin

Central International has sold its 24% stake in Tranz Rail to Canadian National Railways)

It's a (White) Mans World...

Ironically, despite describing worker's practices as "macho" Tranz Rail's Board of Directors (9 people) and its Executive Management Team (9 people) are all men. Indeed, among all Company and subsidiary company Directors there was only one woman – Sarah Maree Lunam – who resigned from all positions in 1999. Overall, 89% of Tranz Rail's workforce is male. Maori and Pacific Islanders are over-represented compared to the general population, with many working in dangerous activities such as shunting.

“Concern for nothing beyond the bottom line of profit also weighed heavily with the judges”

In October 2000 Tranz Rail announced that it is was seeking to “reduce its investments in non-core assets and businesses through rationalisation and divestment” (Tranz Rail Media Release Oct 25). The company is now seeking to invest in only those activities that will generate “quick paybacks” (Annual Report 2000). The most important of these ‘non-core’ businesses is “passenger rail markets, which will be put on the market for sale”. This coincided with the Auckland Regional Council's long-running desire to take control of the rail corridor to ensure effective commuter services. In this process the Auckland City Council has experienced considerable difficulties getting Tranz Rail to co-operate over negotiating access to rail corridors. The Chairman of the Auckland Regional Council stated that the Council was “working to ensure that a rail company based in Wisconsin USA cannot hold us to ransom on their rail corridors in Auckland” (Media Release Sept 6 1999). The present terms of the in-principle deal finally struck between Auckland City Council and Tranz Rail is for Auckland City Council to pay Tranz Rail \$112 million to regain control of the rail corridor.

The irony of this deal is that under current arrangements the Crown owns the land on which Tranz Rail's rail assets are situated, and this land is leased to Tranz Rail for

\$1- per annum. Thus the present deal with the Auckland City Council represents a tidy 11,200,000,000 % profit on Tranz Rail's annual expenditure of \$1 per year to lease this (and other) land. Indeed it seems unimaginable that the Auckland Regional Council will pay some 34% of the total price Tranz Rail paid to purchase the whole of New Zealand's rail network from the Crown in 1993 (NZ\$328.3 million) – including all rolling stock, land leases, bridges, buildings, forklifts, signals etc.

This crass profiteering at the expense of present and past New Zealand taxpayers should not be possible under any Government that claims to govern in the interest of the people. The Government has indeed now taken over negotiations with Tranz Rail, although given Government's past record of giving all to Tranz Rail and requiring little in return (including safeguards on worker and community safety), Tranz Rail must not be too worried about this change of negotiator. Tranz Rail is also seeking to sell its metropolitan passenger service in Wellington, so the Auckland fiasco will no doubt be repeated in the near future.

Tranz Rail also wants to withdraw from long-distance passenger rail throughout the country (except for certain profitable scenic routes such as the Tranz Alpine), forcing more people in to more dangerous, expensive and polluting car travel. In addition, Tranz Rail is seeking to "rationalise" certain rail freight operations that have been identified as being "uneconomic" (Media Release Feb 1 2001). Tranz Rail will either close or sell these lines, including services between Napier and Gisborne, the Rotorua branch line, and possibly the Main South line between Dunedin and Invercargill (RMTU Media release March 30 2001).

Jobs

Tranz Rail continually seeks to improve "internal performance" in order to maximise its profits. Operating profit for 1999-2000 was NZ\$70.8 million, based partly on a massive increase of 19.7% in labour productivity and a 4.5% decrease in labour costs over the year (Report to Shareholders 2000). Tranz Rail managed to shed 221 full time jobs between June 1999 and June 2000, of which 211 were in the area of capital maintenance which is integral to public and worker safety. This comes on top of 900 jobs cut since 1993. Up to 3,000 jobs may be lost in the future as Tranz Rail

divests itself of its passenger rail, certain freight lines and refrigerated freight operations, as well as future contracting-out of most maintenance tasks.

“Tranz Rail's lack of concern for the environment when profit and competition is involved was also a factor in its selection” by the judges

According to the Green Party and the RTMU, road transport emits around five times as much Carbon Dioxide (the most important of the greenhouse gases) per tonne transported than rail transport. So transporting more people and freight by train is an important way for New Zealand to reduce emissions of those gases that cause the rising seas that threaten many of New Zealand's Pacific Island neighbours. Yet at a time when the government has signaled its intention to reduce emissions back to 1990 levels, New Zealand's rail network is being dismantled to maximise profits for a handful of overseas investors.

Train transport also means less emissions of lead and cancer causing pollutants emitted from cars in New Zealand's cities.

According to the Green Party, if the planned spur line between Whangarei port and the main rail line is not built, some 700 logging trucks per day will be required to ship the amount of timber expected to be harvested within the next five years. This will have enormous costs in terms of greenhouse gas emissions, local air pollution in Whangarei, and road safety.

The Ferry Fiasco

Throughout 1999-2000 Tranz Rail continued to contest moves by Marlborough District Council and the residents of the Marlborough district to restrict the speed of ferry crossings to 18 knots. Faster ferry crossings were restricted on human life and safety grounds as the Council's risk assessment showed faster crossings posed an undesirable risk to small crafts, with an expert assessment suggesting an unnecessary death every 4-5 years as a result of the increased level of wash generated by faster ferry crossings. However, Tranz Rail has complained that the restriction adds 30

minutes to the crossing time, and was rumoured at one point to be considering suing the Marlborough District Council for lost revenues.

Since the demise of Tranz Rail's only competitor on the Cook Strait crossing – the Top Cat - it now holds an absolute monopoly in commercial ferry crossings between North and South Islands. Immediately after Top Cat ceased operating, freight charges for the crossing increased by 8%. The Road Transport Federation described Tranz Rail as displaying “all the signs of a virtual monopoly since Top Cat left the market” (*Press*, December 14 2000). The Canterbury Employers Chamber of Commerce said that these price increases were “horrific” and “like highway robbery” (*Press*, November 23 2000). Given that Tranz Rail's monopoly position allows it to apparently charge at will for freight crossings, it is unclear how the extra 30 minutes affected by the speed restriction can affect company profits.

TRANZ RAIL DOES IT AGAIN!

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