

# New Year brings renewed opposition to e-tolling

By [Nicky Smith](#)

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The scene is set for a major battle between civil society groups, private citizens and the state in the coming months, with temperatures already running hot during the normally sleepy holiday season over unpopular e-tolls.



Sanral faces an uphill battle to force people to pay e-tolls amid various legal challenges. Image: [First Car Rental](#)

Dedicated e-tolls opponent the Opposition to Urban Tolling Alliance (Outa), which has spent the greater part of the past two years dragging the South African National Roads Agency (Sanral) and the Department of Transport to court, has promised to campaign to undermine the programme. Outa has repeatedly called for the state to abandon e-tolling in favour of using a fuel levy to pay for upgrades made to Gauteng's freeways.

Outa is well supported by other non-governmental organisations such as the Justice Project of South Africa (JPSA) and the Automobile Association, all opposed to the collection of tolls to pay for the road improvements known as the Gauteng Freeway Improvement Project.

In the week before Christmas it was clear from reports that some of the problems with e-tolls that its opponents had predicted, specifically regarding the collection of tolls, were starting to occur.

People who refused to register for e-tolls received SMS and email demands for payment without attached invoices. Call-centre workers were calling road users demanding payment and their physical address details in order to send out bills.

## Legal points being questioned

The JPSA has voiced concern over the way in which road users' information has been accessed, saying there has been a violation of the Protection of Personal Information Act as the e-toll collection company has used information from its fine-paying website to support its e-toll collection efforts.

Sanral has defended the use of the databases as legal and pointed out that people using the toll roads have an obligation to pay for using the roads.

Meanwhile, Outa has organised a project in conjunction with two law firms to represent the first person to be prosecuted under the Criminal Procedure Act for the non-payment of tolls. The law firms will not be charged for conducting the defence. This will be a test case to argue the merits of the e-toll scheme as well as its lawfulness.



Wayne Duvenage says motorists must be aware of their rights if Sanral tries to demand payments. Image: YouTube.

Despite having gone to court four times in the past two years, Outa's cases have largely dealt with points of law and issues such as the technicalities of when such a case should be brought before the court.

During the first test case, says Outa chairman Wayne Duvenage, the alliance would provide much of its prepared legal argument that has yet to be raised in court.

## Calls for civil courage

Outa has also called for a "civil courage" campaign encouraging drivers to arm themselves with information about their

rights as well as the rules of the toll roads. It has also warned people not to be bullied by Sanral into registering for an e-toll account and buying an e-tag.



Sanral's campaign to sell e-tags has incurred angry responses from motorists who have refused to buy them despite substantial discounts being offered.  
Image: Sanral

There is no legal obligation to buy an e-tag or to have an account - these are used by Sanral to incentivise enforcement and payment of toll tariffs through substantial discounts.

It is not only Outa that has been campaigning against the new road tax. The Congress of South African Trade Unions has staged regular protests. And with an election

looming in the first half of 2014, e-tolls will be a central campaign issue for the opposition Democratic Alliance (DA), which has set its sights on taking Gauteng province from the ANC.

The DA is also planning to challenge the constitutionality of e-tolling in the coming months as it says the law was improperly tagged during the legislative process, which may mean it would have to return to Parliament.

The state and the Sanral may be relieved that the gantries are finally ticking over as this is a vindication of the state's ability to form and implement policy on a user-pays basis. Given public outrage over e-tolling, however, any other new infrastructure programmes based on this funding model may prove difficult to implement.

For Sanral, the relief purely financial as it has been surviving on loans (worth about R5bn) for the past year to pay its debts.

It will be a tough year for Sanral, which has lost the popularity battle already. Despite spending millions on marketing the e-toll programme and cutting toll tariffs by half, public sentiment seems fiercely opposed to paying tolls to use the roads.

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