

12 July 2019



Mr Paul Lindwall
Presiding Commissioner
National Transport Regulatory Reform Inquiry
Productivity Commission
LB2 Collins Street East
Melbourne, Vic 8003

Dear Mr Lindwall

The National Farmers' Federation welcomes the opportunity to make a submission to the Productivity Commission inquiry into National Transport Regulatory Reform.

The NFF is the peak national body representing farmers and, more broadly, agriculture across Australia. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations form the NFF. The NFF is committed to advancing Australian agriculture by developing and advocating for policies that support the profitability and productivity of Australian farmers.

As the peak industry body representing agriculture in Australia, the NFF has a significant interest in transport regulation. The cost of transporting food and fibre from farms to consumers, and logistics generally, are the largest single cost items in the production of many agricultural commodities – amounting to as much as 48 per cent of farm-gate costs for some commodities^{1,2}. With over two-thirds of agricultural produce exported, valued at \$49 billion in 2017-18, efficient transport systems and supporting regulation are critical to the productivity and international competitiveness of Australia's agricultural industry.

The NFF has articulated a vision to grow our industry from its current \$59 billion in farm gate returns to \$100 billion by 2030. The NFF *2030 Roadmap* prioritises improvements in value chain logistics and identifies the following actions, amongst others, as critical to achieving increased efficiencies and international competitiveness:

- Introduce consistent national transport regulations.
- Map strategic transport infrastructure for Australian agriculture to identify cost reduction opportunities.
- Establish Regional Agriculture Deals to provide a multi-government framework for physical infrastructure investment and regional development policy.
- Establish food manufacturing precincts in key growing regions with access to export facilities.

¹ Freight costs as a share of the Gross Value of Agricultural Production (GVAP) are: 6.4% for beef, 27.5% for grains, 2.4% for cotton, 4.3% for dairy, 2.5% for pigs, 2.1% for sugar, 11.6% for rice, 21% for fruits and vegetables, 5.8% for sheep and goat meat and 1% for chicken meat (*AgriFutures, 2019, 'The Impact of Freight Costs on Australian Farms'*).

² *Idid.*, p. 3.

- Implement value chain technologies and processes that inform prices and strengthen market signals.

The current metric the NFF has identified as demonstrating improvements in these areas is: ‘Australia’s freight cost per tonne-kilometre is competitive with major agricultural exporting nations’.

This review presents a valuable opportunity to assess progress to date on the development of national regulatory regimes for heavy vehicles, rail safety, and domestic commercial vessels, and the extent to which these regimes are achieving their goals. It is work we would hope to incorporate into NFF’s assessment of progress towards achieving industry’s 2030 objectives.

The NFF has interests across all three transport systems but most of its recent work has focused on heavy vehicle regulatory reforms. We worked closely with the National Heavy Vehicle Regulatory (NHVR) and relevant jurisdictions in the drafting of a National Class 1 Agricultural Vehicle and Combination Notice. We also worked with NHVR on increasing awareness of changes to Chain of Responsibility requirements. We are currently providing input to the review of the Heavy Vehicle National Law and work on the independent price regulation of heavy vehicle charges, as well as the National Freight and Supply Chain Strategy.

We note the Terms of Reference ask the Commission to:

- Investigate the long-run benefits of COAG’s transport regulatory reform agenda;
- Examine the implementation and development of the national regulators and the extent to which the objectives of the agenda have been achieved; and,
- Identify opportunities to further integrate and harmonise the national freight markets and the current focus and remit of the three national regulators.

The NFF makes the points below as an initial contribution to the Productivity Commission’s work on this inquiry.

National regulatory frameworks do not always equate to increased efficiency or productivity gains.

In theory, the NFF considers significant efficiency and productivity gains can be achieved through greater harmonisation (via the adoption of national regulatory frameworks) of transport regulation. We would highlight, however, that it is not so much a national regulatory framework that will necessarily deliver safety, efficiency and productivity gains, but rather the substance of the rules and processes that are part of the framework that determine whether safety, efficiency and productivity gains will be achieved.

To achieve these gains, we would argue, harmonisation must also: only impose effective requirements that do not go beyond what is required to achieve the purpose of the regulation; simplify and clarify rules; and reduce paperwork and the overall regulatory burden on users of transport systems. In sum, the rules must be sensible and compliance as easy as possible.

The NFF’s experience of regulatory reform in the heavy vehicle space has raised questions regarding the extent to which the establishment of a national regulatory framework/body has contributed to nationally consistent regulation, a reduced regulatory burden and costs, and

enhanced efficiency and productivity. This view is principally based on our engagement with development of the National Class 1 Agricultural Vehicle Notice.

While NHVR played an important coordinating and drafting role, it was apparent that on those issues where jurisdictions were unwilling to move significantly from existing regulatory settings, no mechanism existed to ensure consistent rules. This highlighted NHVR's lack of authority in negotiating compromise positions (including positions that achieved improved efficiency and reduced the regulatory burden).

To be clear, the final Class 1 Notice represents an improvement on earlier requirements. It is, however, far from being a nationally consistent set of rules. It retains state-specific requirements and inconsistent zone alignments across state borders. In terms of reducing the regulatory burden on farmers moving agricultural machinery, vehicle dimensions are also not as accommodating as industry considered both safe³ and practical.

The outcome raised the question as to whether the role of the NHVR materially altered the outcome or whether a similar outcome would have been achieved via a process that involved jurisdictions alone supported by a secretariat. Some NFF members believed the Commonwealth should have taken a stronger role in ensuring a single set of rules that achieved far greater efficiency gains.

NFF was also dismayed at the period of time it took to negotiate the new Notice. We ultimately welcomed it because it was an improvement, but it was also considered the best outcome we could achieve at the time and, after almost 2 years of dedicating resources to the issue, we were keen to reduce the regulatory burden on farmers as soon as possible even if it was not the kind of outcome we had worked for.

A risk versus a prescriptive approach to regulation

NFF involvement with increasing awareness of changes to Chain of Responsibility requirements also highlighted issues around communication of changes to national road rules. Specifically, the shift to a risk-based approach rather than a prescriptive approach seemed to increase the burden on those who use and contract heavy vehicles. Many farmers and industry associations sought clear guidance from NHVR on what they needed to do to comply with the changes. The response was that users should take a 'common sense' approach to interpreting the requirements. The implication of this advice was it would only be through post-regulatory prosecution that farmers (and other users) would have a clear idea as to what action (or lack of action) constituted a breach.

The NFF has traditionally supported risk-based approaches to regulation because, in theory, risk-based approaches should enable those subject to that regulation to implement their obligations in a way that best suits their particular circumstances. Risk-based approaches should also obviate the need for rules that seek to address all possible situations. Related to this, risk-based approaches should also reduce the need to be fully cognisant of all requirements – even those not relevant to your business – thus reducing the regulatory

³ The NFF commissioned a study into the safety aspects of agricultural vehicles on public roads. The report found that only 0.15% of road deaths were related to Large Agricultural Vehicles. Franklin, R., J King and L. Miller (2018) Large Agricultural Vehicles on Roads in Australia, James Cook University available at: [file:///C:/Users/prudenceg/Downloads/Franklin%20Project%20Report%20Final%20140818%20\(3\).pdf](file:///C:/Users/prudenceg/Downloads/Franklin%20Project%20Report%20Final%20140818%20(3).pdf)

burden. What became apparent in the Chain of Responsibility awareness campaign was that the fear of prosecution meant those subject to the rules sought clear guidance on what constituted compliance. Users were concerned that they would have to wait for prosecutions to obtain this kind of certainty.

Scope of the inquiry

The NFF would encourage the Productivity Commission to incorporate consideration of both current work on cost reflective heavy vehicle pricing as well as processes supporting development of the Inland Rail project.

We would argue that consideration of the process and principles underpinning the cost reflective heavy vehicle pricing initiative is critical to assessing the benefits of COAG's transport regulatory reform agenda for three reasons. This initiative is a major piece of reform that is raising significant concerns for a number of heavy vehicle users. The process for engaging with jurisdictions and stakeholders should be informed by the outcomes of this study. Those improvements can only be identified and adopted if there is some assessment of the current processes guiding development of a new system for charging heavy vehicles. The third reason is that the principles that appear to underpin the cost reflective heavy vehicle pricing initiative may not be consistent with the objectives of COAG's reform intentions to improve safety and reduce costs and the regulatory burden. The NFF considers that, for these reasons, the cost reflective heavy vehicle pricing should be included in this inquiry.

NFF also considers the inquiry could usefully consider the processes for determining the design of the Inland Rail project. This is a nationally important project that promises to transform the movement of east coast agricultural freight, materially improve freight costs and increase the international competitiveness of Australian agriculture. A review of regulatory reform should include, in our view, consideration of how transport projects are initiated, designed and implemented.

The NFF considers there is significant scope to improve the processes and structures through which to achieve reforms of the transport sector that lead to greater safety outcomes, reduced costs and a reduced regulatory burden on companies and users. We look forward to continuing to engage with this inquiry as it proceeds.

Please do not hesitate to contact Pru Gordon, General Manager, Trade and Economics should you have any questions with regards to this submission.

Yours sincerely

TONY MAHAR
CEO