# Submission - Productivity Commission National Transport Regulatory Reform Draft Report

Pacific National (PN) is pleased to provide a submission to the Productivity Commission (the Commission) on its National Transport Regulatory Reform Draft Report (Draft Report). This submission builds on PN's comprehensive submission to the issues paper.

We use this opportunity to highlight the productivity barriers currently imposed on the rail industry, including the different drug and alcohol requirements in New South Wales (NSW) and the different fatigue management requirements for train drivers in Queensland and NSW compared to the rest of the country. These derogations from the Rail Safety National Law (RSNL) coupled with the National Heavy Vehicle Regulator's (NHVR) remit to support continued productivity improvements for heavy vehicles that permits longer and larger trucks on our roads, makes it increasingly challenging for rail freight to compete with heavy vehicles.

## Regulatory Framework is limiting innovation and productivity in rail freight

The outdated regulatory framework is limiting innovations to increase rail freight safety and productivity. As an example, the introduction of driver-only operations (supported by automatic breaking) has become an arduous and lengthy process. Countries including Germany, Italy, France, Netherlands, United Kingdom, Spain and New Zealand have long embraced single-driver operations with no negative impacts on safety.

Ironically, as rail freight is forced to navigate regulatory hurdles to realise driver-only operations, Transport for NSW has deployed fully-automated, driverless passenger trains on the Sydney Metro network. Similarly, federal and state government agencies are actively supporting enhanced automation in the heavy vehicle sector, including proposed future trials of truck platooning on major highways.

The regulatory approval process imposed on rail freight consumes significant in-house resources, which has the effect of denting investment confidence; ultimately making rail less competitive against road. This then merely drives more freight onto trucks; with the resulting disadvantages and problems.

Rail freight operators are also subjected to a wide range of safety reporting requirements, ranging from trivial (small animal strikes) to significant (collisions) – the former an example of over-reporting for what constitutes a low risk event. PN is of the strong view the rail freight sector must be regulated to actual risk not low or inconsequential risk. This includes the regulator factoring how new technology can mitigate against risk; a rail safety regulator empowered to advocate for the removal of outdated regulations/standards which inhibit rail productivity will better serve the national freight task.

There also exists a multitude of state-based derogations from the RSNL, making compliance complex, inconsistent and costly. For example, there is a national risk-based approach to manage fatigue but Queensland and NSW are still locked-on mandated train driver hours. Derogations run counter to the purpose of a national rail safety regulatory framework and it introduces prescription which undermines a risk based regulatory approach.

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Accordingly, PN strongly supports the Draft Report recommendation 4.1 which recommends the COAG Transport Infrastructure Council (the Council) request the National Transport Commission (NTC) review derogations. We also support recommendation 5.3 for the NTC to conduct an independent review of rail fatigue management laws (which could be undertaken as part of the derogations review recommendation 4.1).

We would also like this review to cover jurisdictional rail technical standards (and authorities) which act as a derogation from national standards. We single out the NSW Asset Standards Authority (ASA) which imposes different technical standards on rail freight operators compared to the rest of the country – state specific standards may limit operational flexibility to run trains in other states; we are not aware of a separate NSW heavy vehicle standards body.

**PN Recommendation:**

Implement draft report recommendations 4.1 and 5.3 as a matter of priority. The review should also include jurisdictional rail technical standards which act as a derogation to national standards.

## Government policy settings continue to favour road over rail

Rail and road freight networks are separately planned and managed. Fundamentally different national and state-based transport regulatory approaches are used to price rail and road infrastructure networks. As noted in PN's issues paper submission there are now substantial discrepancies between the transport infrastructure regulatory pricing approaches applying to the road and rail freight industries. This imbalance has created significant economic, productivity and competitive imbalances in the freight markets that are reliant on access to both road and rail infrastructure networks to compete for market share in delivering the national freight task.

In terms of road to rail substitution for the national freight task, the Draft Report states mode choice is a commercial decision and government regulation should be neutral between transport modes. Further, it states regulatory measures which seek to shift more freight from road to rail are likely to be counterproductive by imposing large efficiency costs on freight transport and the community.

However, despite these statements, the Commission recommends (draft recommendation 6.4) COAG direct road managers to work with NVHR to rapidly expand key freight routes for large vehicle types (including PBS vehicles) and develop associated infrastructure to support them. This comes at a time where the road funding arrangements (PAYGO)[1] have seen:

- Road expenditure by jurisdictions increased significantly in both 2017–18 and 2018–19.

[1] National Transport Commission Heavy vehicle charges consultation report December 2019 pp 6-8

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- As a result of increases in total road expenditure and changes in the composition of expenditure, the heavy vehicle cost base for the 2020–21 charges year is now $3.714 billion, an increase of $655 million compared to the 2018–19 heavy vehicle cost base.
- Heavy vehicle charges revenue has remained relatively static due to the revenue and charges ‘freezes’ applied to heavy vehicle charges from 2016–17 to 2019–20.
- For 2020–21, the gap between the heavy vehicle cost base and estimated revenue at current charges is $379.6 million or 11.4 per cent.
- Despite the need for a 11.4 per cent increase in heavy vehicle charges the Council recommends charges only rise by 2.5 per cent.

In comparison the following table demonstrates the price discrepancies that have emerged between road and rail freight infrastructure charges since FY2013 and which are projected to continue into FY21 (under existing regulation without the Council decision).

**Table 1: Rail and Road freight access Charges 2012/13 – 2020/21**

| | Compound average annual growth | Total increase |
|---|---|---|
| Road user charges (B-double) | 0.3% | 1.4% |
| Rail access charges | 2.2% | 22.3% |
| Road freight index | 2.2% | 21.7% |
| Rail freight index | 4.9% | 54.4% |

PN submits recommendation 6.4 cannot be reconciled with claims of modal neutrality. We note in the last 10 years the heavy vehicle industry has embraced technological innovation and are competing with rail to transport regional bulk and long-distance containerised freight products. Between 2008 and 2018, there has been a 27 per cent increase in registered articulated trucks including B-doubles, B-triples and road trains.

In 2018, the NHVR approved the roll-out of a 105-tonne 36.5 metre B-Quad truck on select routes between Victoria and Queensland. In 2014-15 applications for performance-based standards (PBS) enabling the use of high productivity vehicles (HPV) rose up by 115% over 2013, while PBS applications for all heavy vehicles rose by 82%[2]; promoting greater capacity of heavy vehicles will produce increased road congestion and road maintenance, the cost for which is not recovered.

It is into this competitive landscape the rail freight industry must compete in order to retain its existing modal share as well as to grow its modal share of the national freight task. The net effect of the existing rail infrastructure charging imbalance has been the long-term erosion in the rail industry’s ability to compete for improved modal share of the growing national freight task and the continuing reduction in the rail industry’s revenue base.

[2] ABS

A reducing revenue base makes it difficult for rail operators to justify any major investment in new freight terminals, rollingstock and related assets.

Any continuation of the current trend will start to have adverse knock-on effects within the rail industry, given the aging nature of the below-rail infrastructure, above-rail rollingstock fleet, freight terminal facilities combined with the higher maintenance costs and reduced service reliability that comes with the aging infrastructure. Such an outcome will continue the rail industry's existing downward cycle and see the managed decline of Australia's rail industry.

Perpetuating the current road versus rail infrastructure charging imbalances is not a competitive or economically sustainable option for the Commonwealth and State governments. The Commission's review provides the opportunity to make a clear statement on competitive modal neutrality in pricing of land freight transport.

The Draft Report provides commentary on the compelling arguments for reform to road infrastructure arrangements – we suggest the Commission goes further in its final report and recommend the Council examine how land transport funding and pricing arrangements for both rail and road can be improved to achieve modal neutrality. We note the Council's National Rail Vision and Work Program[3] committed to develop options to assess how rail access regimes could be assessed against mechanisms proposed for road pricing and against national competition policy. A Commission recommendation would help progress this commitment. IPART's submission to the Issues Paper makes a similar recommendation[4].

**PN Recommendation:**

The Commission should recommend the Council review how land transport funding and pricing arrangements for both rail and road can be improved to achieve modal neutrality. In doing so, it should recommend the Council progress the commitments made in its National Rail Vision and Work Program.

Another area where government policy settings continue to favour road of over rail is the cost recovery arrangements for the three regulators. The Government is funding the NHVR from taxpayers whereas industry has to fully fund the Office of the National Rail Safety Regulator (ONRSR). Accordingly, we support recommendation 10.2 - the NHVR should move towards cost recovery arrangements in line with the Australian Government Cost Recovery Guidelines.

**PN Recommendation:**

Implement draft report recommendation 10.2. If the Government is unable or unwilling for NVHR to be industry funded then ONRSR should also be similarly funded from taxpayers.

[3] Transport and Infrastructure Council, National Rail Vision and Work Program, p 5
[4] IPART Issues Paper submission, p 2.

## ONRSR's institutional framework needs to be redrawn

PN asserts the long-run benefits of COAG's transport regulatory reforms have not been realised because there is no productivity or efficiency mandate for ONRSR. As noted above, a rail safety regulator empowered to advocate for the removal of outdated regulations/standards which inhibit rail productivity will better serve the national freight task. Accordingly, it is important the vision of the rail regulator include a focus on improving efficiency and productivity in the sector, including recognising the many and varied benefits of rail freight. These benefits include helping to reduce traffic congestion, road accidents and fatalities (plus associated costs), vehicle emissions, and truck 'wear and tear' on roads. Put simply, improving efficiency and productivity in the rail freight sector will ultimately lead to better safety outcomes in Australia's transport supply chain.

As well as having an official productivity mandate, the NHVR also benefits greatly from the leadership and governance structure of a board comprised of prominent Australians who are very active in encouraging expansion of the trucking sector. This includes close engagement with local and state governments promoting greater access on roads and highways for HPVs through sensible and proportionate regulation.

In contrast, ONRSR lacks a traditional board structure, for instance, of the seven members of the board, five are ONRSR executives. With the exception of ARTC (which has oversight of a proportion of Australia's overall rail freight network), the rail freight sector does not receive a high level of deeply ingrained institutional support. Our sector lacks a common thread with the capacity to weave regulatory best practice through every level of government - federal, state and local. A governance structure similar to NHVR would better achieve this purpose.

**PN Recommendation:**

Institutional reform of ONRSR to include a productivity and efficiency mandate and a governance structure the similar to NHVR.

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