



victorian**transport**association_{inc.}

Response to the Productivity Commission National Transport Regulatory Reform

Submission on behalf of the
Victorian Transport Association

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1.0 ABOUT THE VICTORIAN TRANSPORT ASSOCIATION (VTA)

1.1 Introduction

The Victorian Transport Association (VTA) has over 800 members and is dedicated to the service of members and supporters in all sectors of the transport and logistics industry.

With over 100 years' experience and a specific business focus, we possess the industry acumen, market knowledge and industry contacts that enable members to capitalise on the current commercial and regulatory environments.

Recognised as Australia's pre-eminent multimodal prime contractor and employer organisation in transport and logistics, the association works with all levels of government, the unions, statutory authorities and the industry to achieve mutually beneficial outcomes. The VTA is committed to enhancing the image of the industry while helping improving the commercial environment for our members to operate.

2.0 VTA'S RESPONSE TO THE PRODUCTIVITY COMMISSION - ISSUES PAPER

2.1 Approach to the VTA Response

The Victorian Transport Association (VTA) welcomes the opportunity to respond to the May 2019 Productive Commission Issues Paper, titled '*National Transport Regulatory Reform*', which was recently released by the Australian Government Productivity Commission.

The VTA has reviewed the terms of reference for the inquiry and the VTA maintains that the *National Transport Regulatory Reform* must be focused upon and underpinned by three key pillars: improved efficiencies, improved productivity and improved safety outcomes.

It is vital that we confront past standards and legal structures and build the national transport regulatory framework which ensures that we deliver a far more robust, purposeful and flexible framework in order to meet future national industry challenges.

2.2 Specific VTA responses to the Issues Papers - Information Requests.

In relation to each of 'information requests', the VTA has grouped each of its responses under a number of general headings which reflect these requests contained in the Issues Paper.

2.2.1 Regulatory Framework

The VTA acknowledges the different frameworks and the variations across the three regulators modes, it is fully supportive of the current review of the Heavy Vehicle National Law (NHVL) and the need to move from the highly prescriptive to a more risk-management approach.

The following table summarises the review of all 768 pages of the HVNL and the issues raised by the VTA.



Existing Sections for Review	Description
Enforcement Powers	Risk based approach
Penalties	Delineate with objectivity
Fatigue Management	Include <100 km and down to 4.5T GVM
Suspension / Emissions	Mandate minimum standards
Maintenance Standards	Regulate minimum standards
Chain of Responsibility	Definition and education
Weight / Mass Parameters	Desensitize dimension.
Vehicle Combinations	Commit to broader acceptance
Vehicle life	Factor newer HV's into the law.
Additional Sections for Inclusion	Description
Technology and Standards	Currently little reference
Education of Industry	Little formal support
Centralised Database.	Held by the Regulator
National Harmonisation	Six major issues that could be harmonised
Contracts	Minimum standards
Accreditation	Take out the commercial value
Access	Broaden the access based upon accountability, compliance and geography.
Regional areas	Formalise and define the law in context with geographical areas.
National Road Capacity Plan	Commit to an ongoing awareness.
National Regulator	Better define the terms of reference for this very important instrument
Minimum Operating Standards	Clearly define where the minimum sits with operating standards

Table 1 VTA's main issues and considerations to be include in this regulatory review.

During the VTA consultation process, feedback in relation to current penalties and the enforcement of these were penalties were identified as major issues. The penalty framework is not 'fit for purpose' and needs to be subject to significant scrutiny and review.

The new law needs to achieve greater alignment between the penalties and the nature and seriousness of the breaches. There also needs to be demonstrative outcomes and direct and indirect incentives for HVNL compliant operators doing the 'right thing'.

2.2.2 Other Reviews

The VTA believes that that the Productivity Commission should utilise the 'terms of reference' of this regulatory reform to ensure that the collection of accurate data from all respective government agencies to ensure the release of such information will assist future evidence based decision making processes and the provision for the establishment of a secure centralised



national system to reduce red tape and streamline administrative and operational processes for all stakeholders.

The VTA acknowledges it is actively involved in the NTC review of the National Heavy Vehicle Law. The Productive Commission has the opportunity to also draw upon the input of this current review.

2.2.3 Impact of National Reforms upon Safety

The VTA believes that the national reforms have had a positive impact upon safety, however, major challenges still remain in relation to improving safety and also addressing the significant 'costs' of doing business, implementing effective safety management systems and recognising and reducing the 'true costs' of maintaining safety compliance.

The VTA maintains that the actual areas currently regulated should be kept, and include: fatigue management; mass, dimension and loading; vehicle standards; national registration; safe people and practices. However, there needs to be provision for the inclusion of the other topics listed in Table 1 contained in 2.3.1.

There is also a serious need to raise the awareness, understanding and knowledge of the HVNL and to highlight the fact that it applies to all heavy vehicles greater than 4.5 tonnes. This HVNL awareness issue also involves small, medium and large organisations.

There is a major deficiency of the current law especially in relation to compliance and enforcement. Based upon our knowledge of the industry, the VTA believes that we are certainly not at the required and desired levels of compliance.

By way of an example and from a non-jurisdictional perspective, Western Australian and Northern Territory fatigue management regimes work effectively in meeting the needs of operators and drivers who are significantly involved in travelling vast distances. Fatigue management is managed differently to the current HVNL. It is also one of the reasons for these two jurisdictions not being part of the HVNL.

Given the different demands upon fatigue management between states and territories there cannot be a 'one size fits all' approach especially if we want to achieve a national new law. Therefore, there needs to be the establishment of the fundamental 'risks' of fatigue management in the new law but still allowing for the 'flexibility' to accommodate different fatigue management regimes to be applied in different jurisdictions, such as, Western Australia and Northern Territory.

The VTA advocates that the legislative fatigue management requirements must extend to all drivers in vehicles greater than 4.5 tonne on a national basis. It also maintains that the monitoring and managing of fatigue must be improved for those drivers operating within 100 kilometres of their base. They are currently not required to manage driver fatigue through a work diary.

When it comes to fatigue management, the focus is very much on long distance operations not the high volume 'local' transport operations which 'represents at least 78 per cent of heavy



vehicles' (NTC Issues Paper). This needs to change and be addressed in the new law if we are to be serious about driving real change and achieving improved safety outcomes for the transport and logistics industry.

The VTA believes that fatigue management needs to be totally reworked whereby effective fatigue management is determined before an operator commences work. We must move from the notion of simply monitoring and managing fatigue management through an administrative perspective as demonstrated in the current focus of work diaries.

It is time that a far more sophisticated and 'fit for purpose' approach is taken to fatigue management on a national basis. To achieve this objective, NVNL must have provision to accommodate and adopt current and future technologies which can effectively manage this area and ensure that it is applied to all heavy vehicle operators and drivers.

Given the focus on improving safety standards and safety outcomes, there is an array of other directly and indirectly related issues which need to be considered. They include: heavy vehicle driver licencing and assessments; driver assessment and fitness for duty; vehicle standards and Australian Design Rules. We should at least consider some of the learnings and practices from other industries such as, rail, aviation and construction.

2.2.4 Practical Effects of Variations Between States and Territories

The VTA supports the concept that national consistency is a desired goal of the HVNL. The VTA also acknowledges it may mean compromise by all jurisdictions in order to achieve such a goal. The VTA believes that there will need to be a change of 'mind-sets' and a significant improvement in the spirit of goodwill between the jurisdictions if we are to achieve a greater 'harmonisation' of the Law.

It also believes that a fundamental impediment for achieving such a goal results from the major derogations exercised by the respective jurisdictions. It is clear many of the inconsistencies of the law and regulations have been severely impacted by this fundamental issue.

This position is witnessed in the operations of VTA members who have national operations and experience first-hand the disruption and the inefficiencies which have resulted from these derogations. It is experienced in areas, such as: vehicle maintenance and safety standards; mass management and compliance, as well as, the obligations associated with noise and emissions.

Mass management parameters along with their enforcement remain a significant issue. It is further complicated by the number, as well as, the requirements of the accreditation systems which operators are required to meet. Many projects and transport and logistic contracts demand strict compliance, training and accreditation to their specific contract demands resulting quite often in significant duplication of safety systems for operators.

We cannot allow for the current level of derogations and inconsistencies to occur and severely impact the desired outcomes. The legislative model must be able to ensure that agreed mandatory operational standards can be applied and enforced and that all aspects of the new law can be



effectively applied on a national and consistent basis. The mandatory operational standards are exactly that 'mandatory' and they need to be appropriately addressed in a risk-based approach.

2.3.5 Practical Effects of the Co-existence of National and State Legal Regulation

This issue has been addressed in the above response and as discussed, the inconsistencies add costs for organisations to do business and directly impacts upon productivity.

A clear example to highlight the practical impact upon safety, costs and productivity is witnessed with the current national and state systems of heavy vehicle driver licencing and assessment. The VTA maintains that this needs to be seriously considered in the formulation of the new Law. The direct and indirect impacts are significant and must be addressed. It has direct consequences upon safety, productivity and compliance, as well as, workforce planning, education and training, recruitment and workforce planning.

This issue also highlights an even more significant issue which prevails throughout the transport and logistics industry, that is, the need to raise the levels of understanding and education and training by all stakeholders of the requirements and the obligations of the new NHVL.

2.3.6 Costs of implementation for Operators and Government

From an operator's perspective, the VTA maintains that the cost of implementation has not delivered the desired productivity gains and the VTA suggests that the Productivity Commission should ensure that this area remains a key focus under the 'terms of reference'.

The VTA is aware of other reviews being conducted into this issue. However, the 'real' financial and the negative impact upon operations and administration for operators is not understood nor appreciated by all agencies. The situation has prevailed for too long and must be addressed if we are truly committed to achieving improved productivity and efficiencies.

The following example highlights the inefficiencies, unacceptable costs and impact upon productivity when we examine the challenges faced by 'Oversize, Overmass' operators in Victoria, as well as, across other jurisdictions.

The current administrative and timeliness issues associated with the issuing of permits and access are totally unacceptable, problematic and extremely costly for the industry. The current 28-day legislative consent process (section 156 of the HVNL) is a major concern and must be changed. The VTA believes that the NHVR should also be granted more power to manage the permit approval processes.

These proposed changes should also apply to the permit processes for Class 1, 2, 3 and Special Purpose Vehicles (SPV). These proposed changes would significantly improve productivity for many sectors of the industry not just the OSOM sector.

Other costly areas of concern for operators include: the engagement and management of sub-contractors by operators associated with HVNL compliance; the lack of consistency of vehicle



inspections and vehicle standards on a national basis and how the responsibilities and obligations are inconsistently interpreted and applied by government agencies. Once again, this is often the result of the severity of derogation between the jurisdictions.

2.3.7 Measuring Costs and Productivity

Many VTA members (small, medium and large organisations) who are already committed to operating effective management systems highlighted the high costs of resourcing, implementing and maintaining such systems. They have also made it clear that from their perspective, there is a lack of understanding and appreciation of these requirements by regulators and government agencies.

2.2.8 Data and Tools

Migration to a national system has indeed been slow and has not meet the desired expectations and outcomes especially in the beginning. Progress has been made but there needs to be a more concerted effort to accelerate reform, consolidate the data stems and ensure their interconnectivity and accuracy. The data and information are actually being captured.

Effective regulatory reform must encompass the NHVR to provide 'real time' and up to date information for operators via the respective compliance systems. The system needs to be secure, integrated and fit for purpose. It requires a concerted effort by all regulators and government agencies to agree upon the national systems and processes and for the NHVR to be responsible for the data system.

We need to ensure that we use technology to reduce red tape and the cost of compliance to organisations. This enquiry provides the opportunity to ensure that technology, data collection and the transfer of effective information is treated as a priority of this regulatory reform.

2.2.9 Regulator Effectiveness and Implementation Issues

The effective of the NHVR has not been fully achieved to date. Under the current law, the NHVR does not have sufficient authority to administer and the scope to make the public safety and productivity decisions required by the transport and logistics industry. This is clearly witnessed in the derogations of the HVNL by the state governments. This significantly impacts upon the current effectiveness of the NHVR.

By way of a few examples, inconsistencies remain across Australian jurisdictions in regards to work hours, minimum alcohol levels, roadworthiness for heavy vehicles and registration processes for heavy vehicles and mass management.

2.2.10 Current Roles and Responsibilities and local governments

As highlighted in 2.2.6, the VTA believes that local councils are under resourced and in many cases lack the appropriate and trained staff to address many of the local road management issues in a timely manner. Access processes for larger vehicles are cumbersome for councils and the technical



qualification needed to suitably assess applications does not sit within Council administration structure.

As a consequence, this area needs to be thoroughly reviewed as the impact upon productivity is unacceptable and the current regulatory does not achieve the right balance. The VTA would be willing to discuss this issue in more detail at a later date.

2.2.11 Interaction with Other Government Bodies

The VTA believes that the interaction of the national regulators suffers from the historical complex regulatory frameworks which are not highly effective in setting the standards on a consistent basis. Whilst progress has been made slowly in some areas, 'silo' frameworks and structures still prevail and this has a major effect upon driving change, reducing costs and achieving increased productivity across many of the complex supply chains.

2.2.12 Future Harmonisation and Interoperability across the transport modes

The VTA recognises the importance of the interoperability across the three modes and believes that a greater alignment between the respective regulators is essential. As mentioned above, the 'silo and protective' mind sets must be challenged and changed.

2.2.13 Future Safety and Productivity Gains

The reduction of red-tape and duplication of processes would go a long way in achieving productive gains. Examples of such processes have already been cited in earlier sections of this submission.

The VTA also believes that improved safety and productivity gains could be achieved by:

- For the future HVNL to achieve improved efficiencies, improved productivity and improved safety outcomes, mandatory operational standards must be part of the new law.
- The future HVNL should make it very clear that the requirements and obligations of the new law and regulations apply to all vehicles greater than 4.5 tonne.

2.2.14 Future Technologies

The VTA believes that technology must be fully embraced and applied to the transport industry. As discussed earlier, extensive data is already available but it needs to be securely centralised. Operators require accurate real time information. They need to be able to access national database(s) to reflect changes to a GVM in real time registrations; IAP issues; permit and access status information; and the systems associated with heavy vehicle registrations, roadworthiness or equivalent certified heavy vehicle safety standards.

3.0 SUMMARY

The VTA believes that this regulatory provides an excellent opportunity to address the short comings and issues associated with the current frameworks. It also acknowledges the significant complexities involved



The VTA and its members maintain that this regulatory reform must ensure that any changes to the HVNL remain focused upon three key pillars: improved efficiencies, improved productivity and improved safety outcomes.

It is vital that we 'get it right' whereby we build a new framework that effectively addresses the current problems and short-comings and ensures that we deliver a far more robust, purposeful and flexible framework to meet future challenges of our industry.

We welcome the opportunity to discuss this submission in more detail.

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