



VICTORIAN FREIGHT AND LOGISTICS COUNCIL

Friday, 27 February 2009

**Productivity Commission
Annual Review of Regulatory Burdens on Business
Social and Economic Infrastructure Service**

The cost impact of regulation disparity in cross border regions

I am writing to draw your attention to a report prepared by the Australian Logistics Council, jointly funded with the Victorian Dept of Innovation, Industry and Regional Development. The findings of this study may serve as an input to your consideration of red tape impacting on the transport industry. The report focuses on transport which I understand is included in the Commission's focus in 2009.

In July 2008 the Australian Logistics Council released the project report entitled, "The cost impact of regulation disparity in cross border regions". The study, which three state-based freight councils participated in, encompassed the Sunraysia region, intersecting New South Wales, Victoria and South Australia.

The ALC report seeks to not only to identify the difficulties faced by businesses in cross border regions as a result of unnecessarily burdensome, complex or inconsistent regulation, but endeavours to identify the monetary and economic cost not only to the individual businesses but to the region and Australia as a whole.

It is estimated in the report that the cost of lost productivity, due to inconsistent regulation, is upward of \$100 million per annum.

I trust that the findings in this study will encourage consideration of positive change in relation to transport regulation, given the contribution this region makes to Australia's export effort and the impacts being experienced in other border regions.

Your sincerely

John Begley
Chairman

Victorian Freight and Logistics Council Ltd. ABN: 32 091 952 751

**Level 10, 80 Collins Street, MELBOURNE VIC 3000
(ph): 03 8688 1830 (fax): 03 8688 1832 (email): vfllc@transport.vic.gov.au**

ANNUAL REVIEW OF REGULATORY BURDENS ON BUSINESS

Comments in relation to cross-border regulatory, compliance and enforcement activities in the transport sector

Reference:

Australian Logistics Council: Impact of regulatory burdens on cross border regions.
A case study encompassing the 'Sunraysia/Riverland Region'
New South Wales, South Australia & Victoria

Higher Mass Limits

Rules that inadvertently provide incentives to operate in less efficient ways

In 2000, the Australian Transport Council Transport Ministers approved model national legislation supporting higher mass limits (HML) for heavy tri axle equipped vehicles. A direct consequence of this legislation would be a payload increase of 9% for conventional semi-trailers, and a 13% payload increase for B-doubles.

Vehicles with tri-axes have to participate in a National Heavy Vehicle Accreditation Scheme (NHVAS) in order to access benefits of HML, thus making it difficult for industry to capture the full benefits of what the initial legislation intended. This is exacerbated by the fact that each state allows different levels of access for heavy tri axle equipped vehicles.

HML heavy vehicles are more efficient, transporting more freight per load. Lack of HML access prevents transport operators passing on the potential cost savings and also makes the goods they carry less competitive, both domestically and in the export market.

Cost

Australian operators nationally have invested between \$100 and \$150 million in HML compliant tri-axle trailers since the introduction of higher mass limits in 2000. Each prime mover equipped with HML compliant suspension adds \$5000 to the price of each truck. Since 2000 this is estimated to have added a further \$100 million in new truck investment. In total this is a \$200 to \$250 million investment by transport operators in HML compliant equipment since 2000.

Lowest common denominator prevails

For operators in border regions, they are often faced with a lowest common denominator approach in that they can only use vehicles that are mutually acceptable to the adjoining States if their journey takes them into multiple jurisdictions. A major wine producer estimates that if there was access for B-triples in part of the region in Victoria's jurisdiction, and additional 30,000 tonnes could be carted by B-triple. This would reduce the number of truck trips during harvest by 200 when compared to B-doubles.

Where the regulations vary, the most stringent and economically restrictive option must be taken by cross-border operators, increasing cost (to / for) both the transport supplier and the end customer.

Inconsistent Application of the National Fatigue Reform Package

Blunt, poorly targeted or unnecessarily complex regulation

September 2008 saw the implementation of new national laws to manage heavy vehicle driver fatigue. These laws were approved by the Australian Transport Council (ATC) and were consistent with current obligations under Occupational Health and Safety (OH&S) laws that also require employers and employees to take reasonable steps to manage driver fatigue.

However, there were inconsistencies adoption of these fatigue laws across the states, particularly in New South Wales where Occupational Health and Safety (OH&S) Long Distance Driver Fatigue Regulation 2005, adds a layer of complexity to OH&S rules and is not wholly consistent with the national fatigue reform package.

These inconsistencies have somewhat blunted the benefits of this reform, and have placed a significant cost burden on businesses. The complexity of these new laws has led to apprehension within the industry of the potential of prosecution due to unintended non-compliance.

Lack of national registration for Heavy Vehicles

Different impacts on businesses operating in the same industry

The Federal Interstate Registration Scheme (FIRS) registration is available to heavy vehicles weighing 4.5 tonnes or over and engaged solely in interstate operations. A vehicle registered under FIRS may not be used for intrastate work, i.e. goods carried by a FIRS vehicle must be in the process of being delivered to an interstate address in a continuous journey (origin/destination documented in a consignment note).

The Scheme is designed to provide uniform charges and operating conditions for heavy vehicles engaged solely in interstate operations. It provided exemption from stamp duty for vehicles, whereas vehicles registered in States and Territories are not exempt. FIRS operate under the *Interstate Road Transport Act 1985*, the *Interstate Road Transport Regulations 1986*, the *Interstate Road Transport Charge Act 1985* and the *Interstate Road Transport Charge Regulations 2001*.

Operators in the Sunraysia/Riverland Region, particularly those on the Victorian side of the border feel that this scheme unfairly penalises them for freight carried from Melbourne. Operators who are based across the river in NSW can legally use FIRS registration whereas Victorian based businesses cannot do so. A similar argument can apply to all cross border locations (i.e. businesses in NSW that haul from Sydney versus ones just over the border in Victoria, and also SA located businesses that move freight to and from Adelaide who have to compete with Victorian and NSW based carriers).

Restricted B-double & B-triple access

The cost of cooperating with audits, inspections and enforcement

Declared B-double routes in each State are listed on each of the road agency websites. The information available on each site varies according to State. This highlights the complexity of paperwork that drivers need to be aware of and carry with them when travelling across state borders.

The implication of this approach to regulation is that it makes genuine compliance too hard, or more challenging than it should be if systems were more consistent and accessible. Time constraints are such that whilst compliance is the goal, operational demands cannot always wait whilst the paperwork is being attended to. As a result the tasks get ahead of the paperwork, and sometimes, the approval.

Cost

Two B-doubles can take the equivalent freight as can be carried on three normal semi trailers, reducing the need for further trucks on the road. There is empirical evidence that B-doubles may be up to 4 times safer than 6 axle semi trailers, with fewer trucks being driven by highly trained drivers.

Performance Based Standards (PBS) Vehicle Accreditation Scheme

Unwieldy approval processes and excessive time delays in obtaining decisions

The intention behind the introduction of Performance Based Standards vehicles is to allow more productive vehicles to be used on our roads when they meet performance based standards, or in other words by how the vehicle behaves on our roads and what it can do. Traditionally heavy vehicles have had to meet inflexible Australian Design Rules (ADRs) which measured vehicles on a rigid basis of length, dimensions and mass.

PBS gives operators the ability to apply for permits to use vehicles “outside the square” of the ADRs where they meet the PBS requirements.

The end result is trucks that can carry more freight while being safer on the road and producing fewer emissions. Therefore businesses and Australia as a nation are more competitive.

Unfortunately industry has found the implementation and approval processes for PBS time-consuming and inconsistent. This has arisen both in the approval of vehicles and the identification and access to the state road networks.

Despite a COAG direction for states and territories to classify their road networks into four PBS access levels and also for network maps to be published by December 2007, many are still to be completed. In particular Victoria has indicated that access to the road network is to be assessed on an individual, case by case basis and the PBS networks will not be published.¹

There is also the need to consider the “last mile” which is often travelled on local government-managed roads off the state network connecting to freight terminals etc. This requires the assessment and approval of these roads, usually on a case-by-case basis by individual councils. Some, particularly smaller councils, haven’t the ability to undertake the required road and bridge assessments. This leads to uncertainty, increased costs, delays in or the inability to invest in Higher Productivity Vehicles by industry. The cost savings use of PBS vehicles would generate cannot be passed on to customers and end consumer.

¹ In December 2008, the Victorian Government released *Freight Futures*, a document indicating a Principal Freight Network in Victoria.

Victorian Truck and Dog Mass Limits

Rules that inadvertently provide incentives to operate in less efficient ways

Both NSW and SA treat these rigid truck and dog trailers in accordance with general mass limits for axle mass. They allow General Mass Limits for these vehicles. Victoria however, de-rates tandem axles such that the total combination is 3 tonnes below the mass allowed in NSW and SA for the equivalent vehicle.

Operators in Victoria have long been frustrated with this difference in mass. It is a long standing issue and one that, if resolved, would provide consistency for this important vehicle combination.

Complex over size and over mass conditions

The costs of dealing with regulators and keeping up-to-date with changing compliance and reporting requirements

Rules for the control of oversize, indivisible loads are complex. South Australia, New South Wales and Victoria each have different permit conditions to cover over width and over mass loads. Victoria has summarised its conditions for in excess of 35 metres in length and widths in excess of 5.5 metres. The other states have not and they are a matter for individual negotiation and issuing of permits where warranted.

Overall there are differences in escort arrangements, convoys, night time travel and particularly hand over arrangements at borders where it is often difficult to find an appropriate place to stop and affect the handover.

The National Transport Commission's (NTC) review of heavy vehicle mass and loading, over size and over mass and restricted access regulations, May 2006 noted in its conclusions:

"Both government and industry agreed that the reforms had failed to reduce their respective costs of administration. This is despite the views of transport authorities and peak bodies that the reforms had reduced the number of permits needed and the view of peak bodies that the reforms had reduced the time taken to get permits. In contrast, transport operators reported that the reforms had not reduced the number of permits needed, nor the time taken to get a permit. Clearly the reforms have failed to remove the need for permits. Accordingly the reforms could be considered to have failed to achieve the objective of reducing administrative costs by removing the need for permits."

Cost

Rules governing the movement of over size and over mass loads vary between states and gaining permits is complex and time consuming adding cost and delays to cross border movements.

Complying with multiple codes

The costs of setting up compliance systems, collecting information, preparing and checking reports, form-filling, document storage

Companies working within the Sunraysia region have a multitude of compliance schemes that they service..

Their major cross border compliance matters include:

- Safe T Cam and related systems
- General compliance around load restraint and vehicle weight and dimensions
- Safety related issues across the three States
- Dangerous Goods compliance
- Cross border fresh produce certification
- Licensing requirements for fork lifts, side loaders
- AQIS requirements for export containers

Cost of compliance

Some medium sized transport companies in the region indicated that they had up to two staff dedicated to handling these issues. Whilst all companies must manage compliance, it would appear that the compliance effort in border regions is increased because they deal on a daily basis with the three different State jurisdictions.

Multiple state licences for high consequence dangerous goods

Administration and operational costs:

Permission involves applying for and maintaining permission for registration to conduct an activity, including permits and licences

One outcome of increased security measures in recent years has been to introduce controls over access to ingredients for the making of explosives. The Australian Government introduced legislation in 2004 to control the availability of these “high consequence dangerous goods” and this was subsequently adopted by each of the states and territories during 2005.

Each state jurisdiction has taken its own path in enacting this legislation and has increased the regulatory burden without necessarily improving the security outcome for the community.

Licences are unique to each state. An operator seeking to operate across the three borders requires 19 licences and \$11,000 to obtain the necessary licences.

Cost

Across the seven member companies of the Australian Explosives Industry and Safety Group, these regulations have added \$2.5 million in capital and annual operating costs of around \$5.6 million per annum. They estimate that their costs of regulation could be cut by at least 50% if there was a nationally consistent approach to the regulation of high consequence dangerous goods.

Inconsistent implementation of the National Load Restraint Guide

Education and training is the cost of maintaining awareness of legislation and regulations and changes to regulatory details

The three States, New South Wales, Victoria, and South Australia all have differing administrative processes to managing load restraint and this has caused confusion and often resulted in fines being imposed.

For South Australia there is no information on the Department of Transport, Energy and Infrastructure (DTEI) web site on load restraint. For NSW, a web link connects to the nationally endorsed Load Restraint Guide. In Victoria, VicRoads provides eight separate guidance notices for the restraint of specific products including steel, rolls and plate, concrete pipes, bales, loads on light vehicles, logs and timber and the retro fitting of tarpaulins.

Industry has expressed the view that the national Load Restraint Guide is overly technical and not specifically helpful for operators with practical queries such as the use of ropes on vehicles. The provision of the VicRoads guidance notes is helpful, but it is felt that more could be done to provide a national approach to this issue.

The circumstances for issuing of fines needs to be better explained as enforcement agencies have often generated fines that at times did not seem to match the severity an offence.

Deployment of Higher Productivity Vehicles

Rules that inadvertently provide incentives to operate in less efficient ways

Higher Productivity Vehicles (HPV's) are restricted access vehicles. Their movements and conditions of operation are specified by gazette notices in NSW and SA.

Road trains can access the south-western corner of NSW. There are road train routes in South Australia that connect to NSW in the region around Broken Hill, but none further south around the Sunraysia study area. There are no cross border routes for road trains between South Australia and Victoria in the Sunraysia region.

Cost

Key products produced and processed within a region that crosses a state border are unable to use the most effective means of transport to all processing plants thereby either adding cost to the transportation process or becoming a de facto barrier to competition.

Inconsistent quarantine inspections

Administration and operational costs

Supervision of cross-border movements of agricultural products has long been practiced to provide a level of protection against the spread of pests and diseases. Whilst each state has differing schemes they have also collaborated to provide an Interstate Certification Assurance (ICA) Scheme designed to meet plant health certification requirements and to minimise the cost of certification of produce.

For transport operators carrying product that is not certified as part of the ICA they must carry manifests and provide these to inspectors at the border inspection points. Information on each state's requirements is available on web sites for each of the states and is generally of a high quality. There is however some frustration at the perceived random nature of quarantine inspections, and the delays in being stopped and inspected.

Cost

Each state has its own quarantine processes. While quarantine is vital to ensuring diseases and pests are contained, the administrative burden on cross border operations is far greater than those in non-border regions.

Proving compliance for double shift operators

Administration and operational costs

South Australia and NSW have linked their Safe-T-Cam systems so they can detect vehicles that have travelled at excessive speeds, travelled beyond prescribed hours, or committed other offences. Some operators, who double shift vehicles and can therefore save on rest times at changeover points on the journey, are finding they are receiving notices of non-conformance.

To have these notices lifted operators must provide evidence along with a sworn statement to authorities. This "proof of innocence" is a major paper work challenge and often requires trips to Mildura to secure a signature. The concept of proving innocence seems the reverse of natural justice and operators would prefer a system where they can register as adopting these driving practices and not have to regularly prove their compliance via an extensive and time consuming paper trail.

Cost

The burden of proving innocence for double shift operators results in considerable operational and administrative costs which are ultimately passed onto the consumer.