Australian Government
Productivity Commission

National Transport Regulatory Reform

Productivity Commission Issues Paper

May 2019

The Commission has released this issues paper to assist individuals and organisations to prepare submissions. It contains and outlines:

- the scope of the inquiry
- the Commission's procedures
- matters about which the Commission is seeking comment and information
- how to make a submission.

The Issues Paper

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- the scope of the inquiry
- the Commission's procedures
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- how to make a submission.

Participants should not feel that they are restricted to comment only on matters raised in the issues paper. The Commission wishes to receive information and comment on issues which participants consider relevant to the inquiry's terms of reference.

Key inquiry dates

Receipt of terms of reference	5 April 2019
Due date for submissions	28 June 2019
Release of draft report	November 2019
Draft report public hearings	January 2020
Final report to Government	April 2020

Submissions can be lodged

Online:	www.pc.gov.au/transport
By post:	National Transport Productivity Commission LB2 Collins Street East Melbourne VIC 8003

Contacts

Administrative matters:	Yvette Goss	Ph: 03 9653 2253
Other matters:	John Salerian	Ph: 03 9653 2190
Freecall number for regional areas:	1800 020 083	
Website:	**www.pc.gov.au**	

The Productivity Commission

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

Further information on the Productivity Commission can be obtained from the Commission's website (www.pc.gov.au).

Contents

1 What is this inquiry about?

In 2008, the Council of Australian Governments (COAG) endorsed a broad reform agenda with the goals of boosting productivity, increasing workforce participation and geographic mobility, and delivering better services for the community. Wider objectives included social inclusion, closing the gap on Indigenous disadvantage and environmental sustainability (COAG 2008b, 2008a). One element of this agenda targeted overlapping and inconsistent national, State and Territory regulations — with the aim of fostering a seamless national economy. In this context, transport was identified as one sector for action.

Consequently, in 2009 COAG agreed to create national regulatory regimes for maritime safety, rail safety and heavy vehicle safety and productivity. COAG's intention was to improve safety while reducing costs and regulatory burden for transport companies and, as a result, lowering costs of exports and trade (COAG 2009). State-specific laws, regulations and regulators were to be replaced with national laws and regulators in each transport mode. Intergovernmental agreements to this effect were signed in 2011 (COAG 2011c, 2011a, 2011b). Estimates of the likely benefits of this reform agenda were substantial for the changes to heavy vehicle regulation.

What has the Commission been asked to do?

The terms of reference for the inquiry (attachment A) require 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
- identify opportunities to further integrate and harmonise the national freight market and the current focus and remit of the three national regulators.

Broader COAG reform goals are to be taken into account, and the Commission is to have regard to complementary reforms, including (but not limited to): rail standards harmonisation and interoperability; improved network access for higher productivity vehicles; and the development of the National Freight and Supply Chain Strategy.

Reform measures that are being progressed separately, such as cost reflective heavy vehicle pricing, are to be excluded from the inquiry except where their consideration is necessary for the Commission to reach a view on COAG's transport regulatory reforms.

The Commission has been asked to complete the inquiry by April 2020 and to consult with stakeholders, including transport operators, drivers, industry groups, end users and State, Territory and local Governments. Hearings will follow release of the draft report (figure 1).

Figure 1 **Key steps in the Commission's inquiry process**

Submissions are encouraged from interested parties. Although this issues paper provides guidance to submitters, it is not designed to be exhaustive. Submissions on relevant matters outside those raised in the paper are welcome. Nor do participants have to answer all of the questions posed in the paper, and submissions may be of any length.

Attachment B details how to make a submission. Initial submissions should be provided to the Commission by **28 June 2019**. There will be another opportunity to make a submission following the public release of the draft report in November 2019.

This paper describes the relevant COAG reforms (section 2); outlines the Commission's intended approach (section 3); and sets out initial views about the issues relevant to the inquiry (sections 4 and 5). Requests for information are set out throughout the paper.

2 COAG transport reforms since 2009

Efforts to harmonise transport regulation have a long and patchy history. For example, model laws had been prepared for the heavy vehicle and rail sectors before the COAG agreement of 2009. But progress on implementation was slow and operators transiting borders were still having to navigate different State and Territory regimes. The COAG processes commencing in 2009 aimed to address these problems.

The three Intergovernmental Agreements are key to COAG's agenda

The Intergovernmental Agreements (IGAs) signed in 2011 covered Heavy Vehicle Regulatory Reform, Rail Safety Regulation and Investigatory Reform, and Commercial Vessel Safety Reform. These agreements set out COAG's objectives and intended outcomes and outputs (table 1), and set up the three national laws and regulators to administer them.

The *Heavy Vehicle National Law Act 2012* (Qld) (HVNL) provides for national standards for heavy vehicles, and addresses a range of issues including driver fatigue, vehicle safety (via, for example, the Intelligent Access Program and the National Heavy Vehicle Accreditation Scheme), vehicle operations (including mass, dimension and loading) and road access arrangements (through relationships with road managers). The National Heavy Vehicle Regulator (NHVR) is headquartered in Brisbane.

Table 1 **Key elements of COAG's transport IGAs**

	Heavy Vehicle IGA	*Rail IGA*	*Commercial Vessel IGA*
Signatories	All States and Territories except Western Australia[a]	All States and Territories	All States and Territories
Objectives	• seamless national regulation • consistent and streamlined administration and service provision of regulation	• seamless national safety regulation of rail operations • improved rail safety	• safe operations with effective, consistent and efficient regulation • minimise legal and administrative costs • no overall increase in regulatory burden
Intended outcomes	• enhanced safety, productivity and efficiency • removal of inefficiencies from inconsistent jurisdictional requirements • reduced regulatory burden and compliance costs	• promotion of safety and safety improvement • improved productivity and efficiencies from consistent national requirements • decreased regulatory burden	• improved safety and lower public, industry and environmental risks • reduced complexity and increased certainty regarding design, construction, equipment, operation and crew certification • remove inter-state barriers to transfer of labour and vessels
Intended outputs	• a national law • an independent national regulator • national standards for delivery of regulatory services and activities • NHVR and Government service level agreements to support implementation of the national system	• a national law • an independent national regulator • expansion of the role of the Australian Transport Safety Bureau's role to cover rail safety investigations nationally	• a national law • a national regulator • a national compliance and enforcement system, consistently applied • a national database of commercial vessels

[a] The Northern Territory signed the Heavy Vehicle IGA, but did not adopt the resulting national laws. Western Australia neither signed the IGA nor adopted the national laws.

Sources: COAG (2011c, 2011a, 2011b).

The *Rail Safety National Law (South Australia) 2012* (RSNL) sets out the duties of parties involved in rail, including operators, manufacturers, persons loading and unloading freight, officers and rail safety workers. It also provides guidance on the development of safety management systems. Rail safety information and investigation is also addressed. The Office of the National Rail Safety Regulator (ONRSR) is headquartered in Adelaide.

The *Maritime Safety (Domestic Commercial Vessel) National Law 2012* (Cwlth) (MSNL) covers: the safety duties of parties; the powers and obligations of safety inspectors; the identification and certification of vessels and seafarers; and general incident reporting. The Australian Maritime Safety Authority's (AMSA's) remit (which previously covered international commercial vessels) was expanded to include domestic commercial vessels. AMSA is headquartered in Canberra.

The three regulators' powers, functions, independence, funding and administration were established by the relevant national laws. Each of the three regulators is responsible for administering and enforcing the national law for their sector.

The regulatory regimes differ in some key respects:

- Regulatory responsibility is shared between the ONRSR and key parties, including governments, operators and industry groups, through a co-regulatory regime. In contrast, the NHVR and AMSA have sole regulatory responsibilities, although in practice they share their responsibilities with State and Territory Government departments through service level agreements (SLAs) which cover enforcement and the delivery of services.
- The heavy vehicle national law is relatively prescriptive; with the rail and maritime national laws reflecting a risk-based approach.
- Functions and responsibilities of both the NHVR and ONRSR are fully delineated by the national laws. AMSA, however, maintains functions external to the MSNL such as providing search and rescue services, services to industry and government and combatting marine pollution as well as regulatory functions for international commercial vessels under the *Navigation Act 2012* (Cwlth).

Furthermore, the structures of the regulated industries are very different. The heavy vehicle industry includes a large number of operators, most with only one or two trucks. Levels of operator and driver turnover in the industry are relatively high, and the industry includes both transport focused 'hire and reward' operations and 'ancillary' operations run as part of businesses that are not primarily transport focused (for example, farmers) (Australian Government 2018). The domestic commercial vessel industry also includes a large number of operators. In addition, it covers a diverse set of marine industries — commercial fishing and aquaculture, passenger transport, tourism, oil and gas exploration and freight. In contrast, there are relatively few operators in both the above rail (train operating activities) and below rail (infrastructure like tracks, tunnels and bridges) segments of the rail industry (Australian Government 2018).

Other key bodies in the new regulatory arrangements

Although transport operators may now face a simpler regulatory environment, they still have to navigate a regulatory framework involving an array of parties.

Responsibility for COAG-led transport reform sits with the Transport Infrastructure Council (TIC) — comprising the Ministers from Commonwealth, State and Territory governments and New Zealand with responsibility for transport and the President of the Australian Local Government Association. The Transport Infrastructure Council is advised and assisted by the Transport and Infrastructure Senior Officials' Committee (TISOC), the National Transport Commission (NTC) and relevant government departments. Each national law brings together a range of bodies and relationships (figure 2). Furthermore, many State and Territory regulatory bodies still exist and are involved in transport regulation on issues not

covered by the national laws and, in many cases, in delivering services on behalf of the national regulators. These mostly comprise of State and Territory departments of transport and related bodies. Finally, State and Territory governments liaise with local governments in implementing particular reforms.

INFORMATION REQUEST

The regulatory frameworks differ across modes and consequently the three regulators operate in different ways — for example, the rail model is co-regulatory.

- *What are the practical effects of co-regulatory versus non-co-regulatory regimes?*
- *If you work with more than one of the national regulators, what are the strengths and weaknesses of the different approaches?*

Differences in the regulatory frameworks are also apparent in the degree to which the national laws are prescriptive or more risk-management based.

- *What are the practical effects of prescriptive versus risk-management based approaches?*
- *If you work with more than one of the national regulators, what are the strengths and weaknesses of their different approaches to regulation?*

To what extent are the differences in regulatory frameworks between modes justified, for example, by the size and number of operators in the markets, nature of businesses being regulated or the technical nature of the activity being regulated?

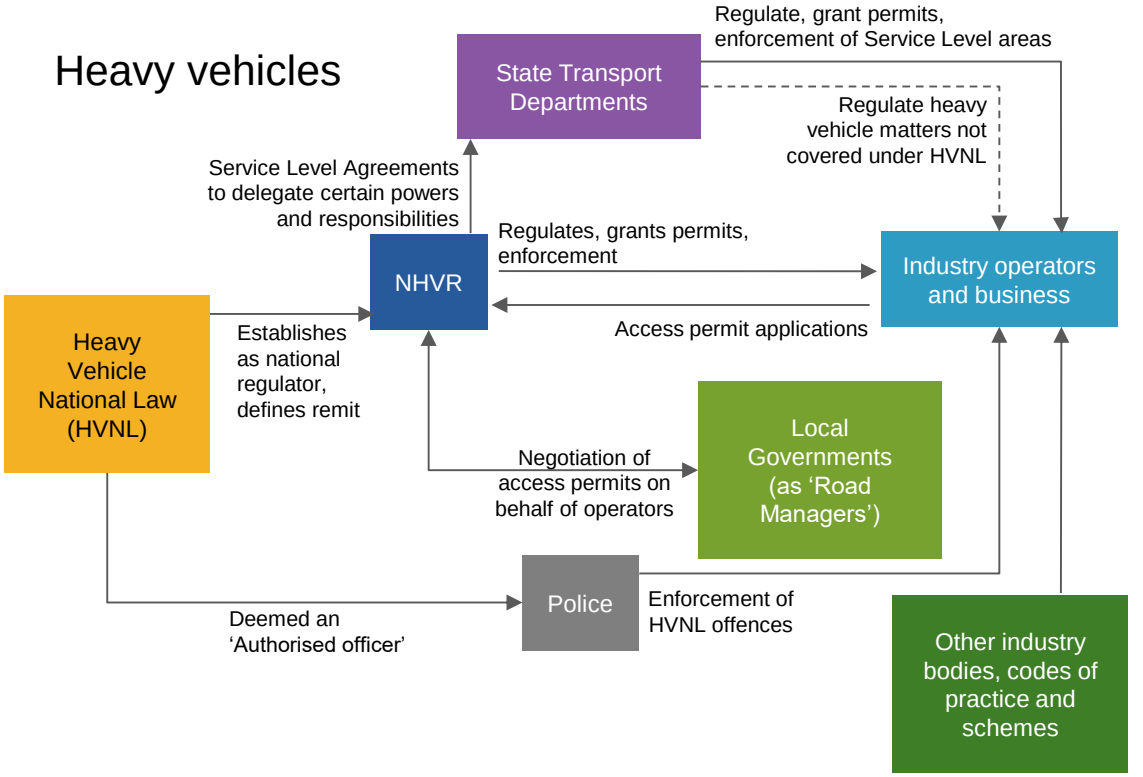
3 The Commission's approach to the inquiry

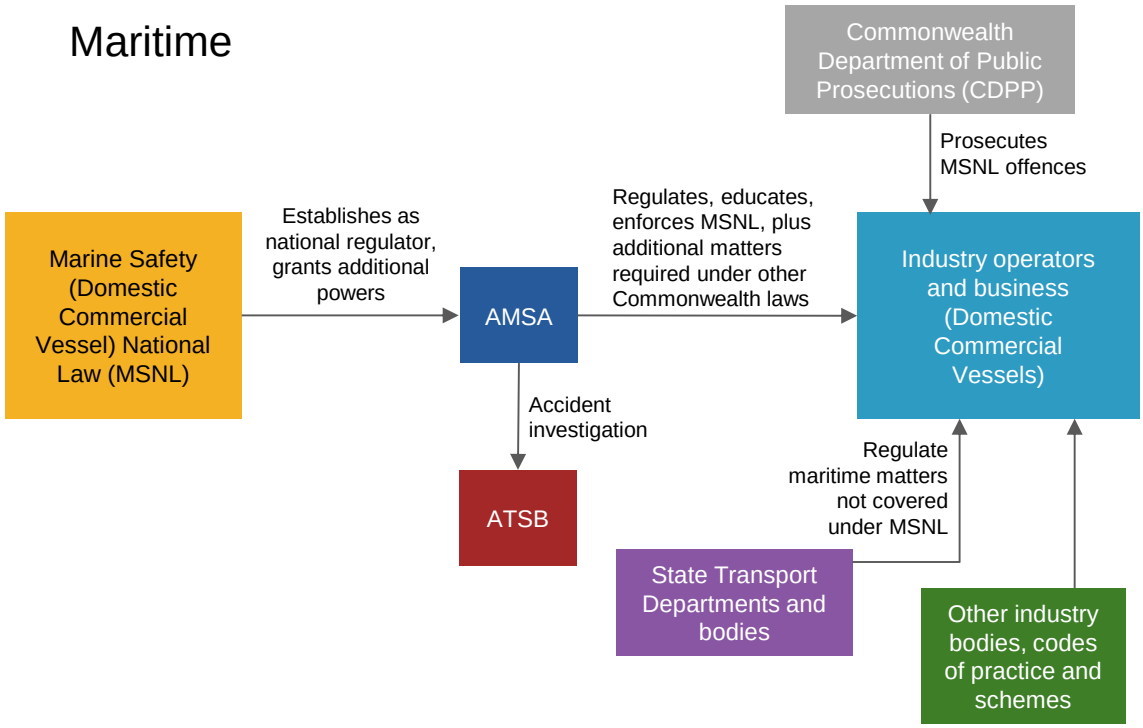
Inquiry scope

Investigation of the long-run benefits of the adoption of national regulatory frameworks for heavy vehicles, rail and maritime requires close examination of the implementation and operation of the three reform streams. A key question underpinning this work is 'have the reforms achieved the objectives set out in the IGAs of 2011?' The answer to this question lies in the extent to which the intended outcomes of the reforms have been realised. These intended outcomes can be summarised as improved safety, nationally consistent regulation, reduced regulatory burden and costs and enhanced productivity and efficiency (table 1).

If COAG's objectives have only been partially met, two further key questions for the inquiry are 'why?' and 'what needs to change to support the realisation of COAG's intended outcomes?'.

Figure 2 **An array of bodies and relationships is involved in heavy vehicle, maritime and rail regulation**





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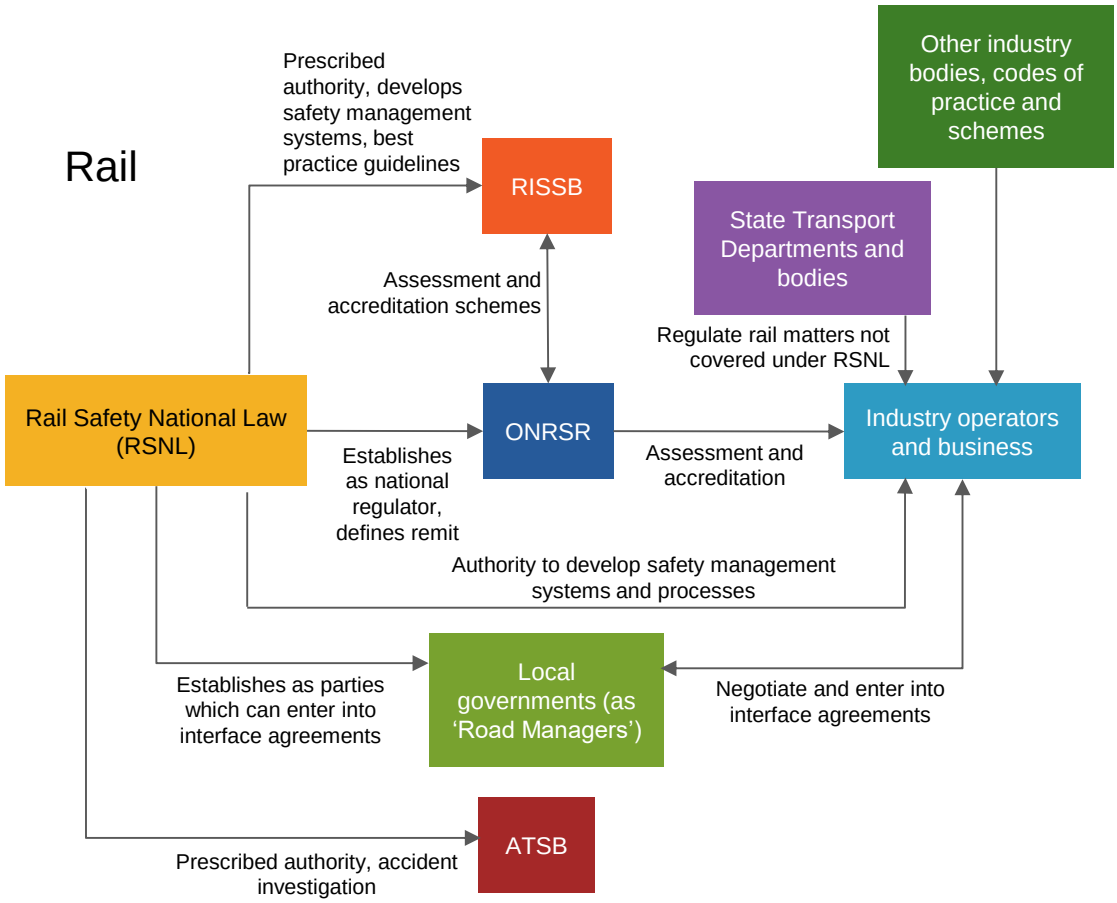
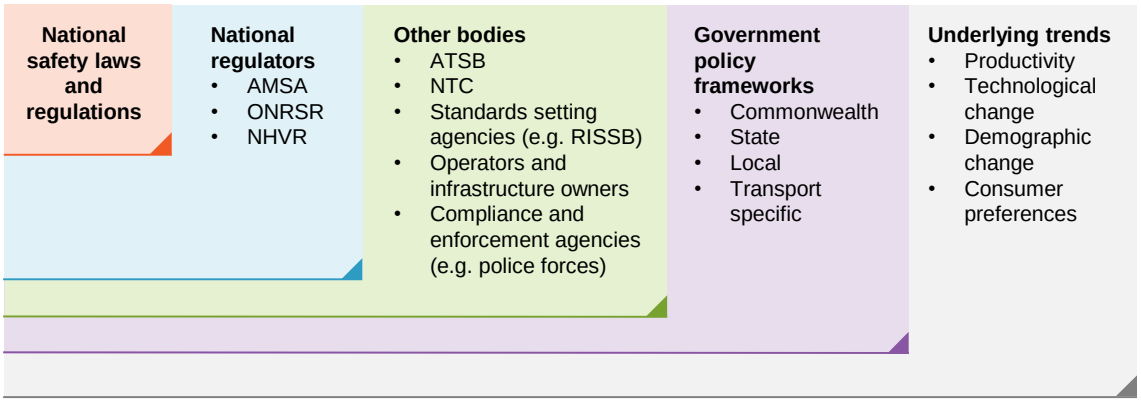


A range of factors is likely to have had a significant influence on the success (or otherwise) of COAG's transport regulatory reforms (figure 3). Safety outcomes might have been influenced by technological change, for example. Regulatory burden is affected by regulatory requirements outside the reform agenda. Productivity and efficiency have been impacted, for example, by operators' investment decisions, infrastructure investment and workforce skills. The roles played by other agencies, government policy frameworks and initiatives and external trends will have to be taken into account in the Commission's examination of the COAG's transport regulatory reforms.

Some of these factors are also relevant to COAG's broader reform objectives and goals, summarised in the introduction to this paper. Key among those goals in a transport context are increased productivity and geographic mobility (particularly of workers). Although the types of factors noted above lie outside the direct scope of this inquiry, the Commission might comment on them in the course of discussing reform opportunities beyond those focused on safety regulation. In undertaking this analysis, reforms with the potential to contribute to the achievement of the related, but separate, objectives of improved transport safety and productivity might be considered. The scope of these potential reforms, particularly those related to improving productivity more broadly in the transport sector, is potentially wide.

Figure 3 **What determines the effectiveness of COAG reform streams?**

Factors influencing the effectiveness of the COAG agenda as it relates to safety, nationally consistent regulation, regulatory burden and productivity



Concurrent research and reforms

In undertaking the inquiry the Commission is mindful of work being undertaken concurrently by other agencies including:

- ongoing **rail** reforms relating to standards harmonisation and interoperability
- ongoing **heavy vehicle** work related to improving network access for higher productivity vehicles, as well as the National Transport Commission's review of the HVNL (2019), the expert panel guiding that review and providing independent advice to the TIC and the assurance review of the NHVR
- for **maritime**, ongoing coastal shipping reforms and the Senate Rural and Regional Affairs and Transport Legislation Committee inquiry into the performance of AMSA (2019)
- **intermodal** strategies such as the National Freight and Supply Chain Strategy currently under development by the COAG Transport and Infrastructure Council (DIRDC 2019).

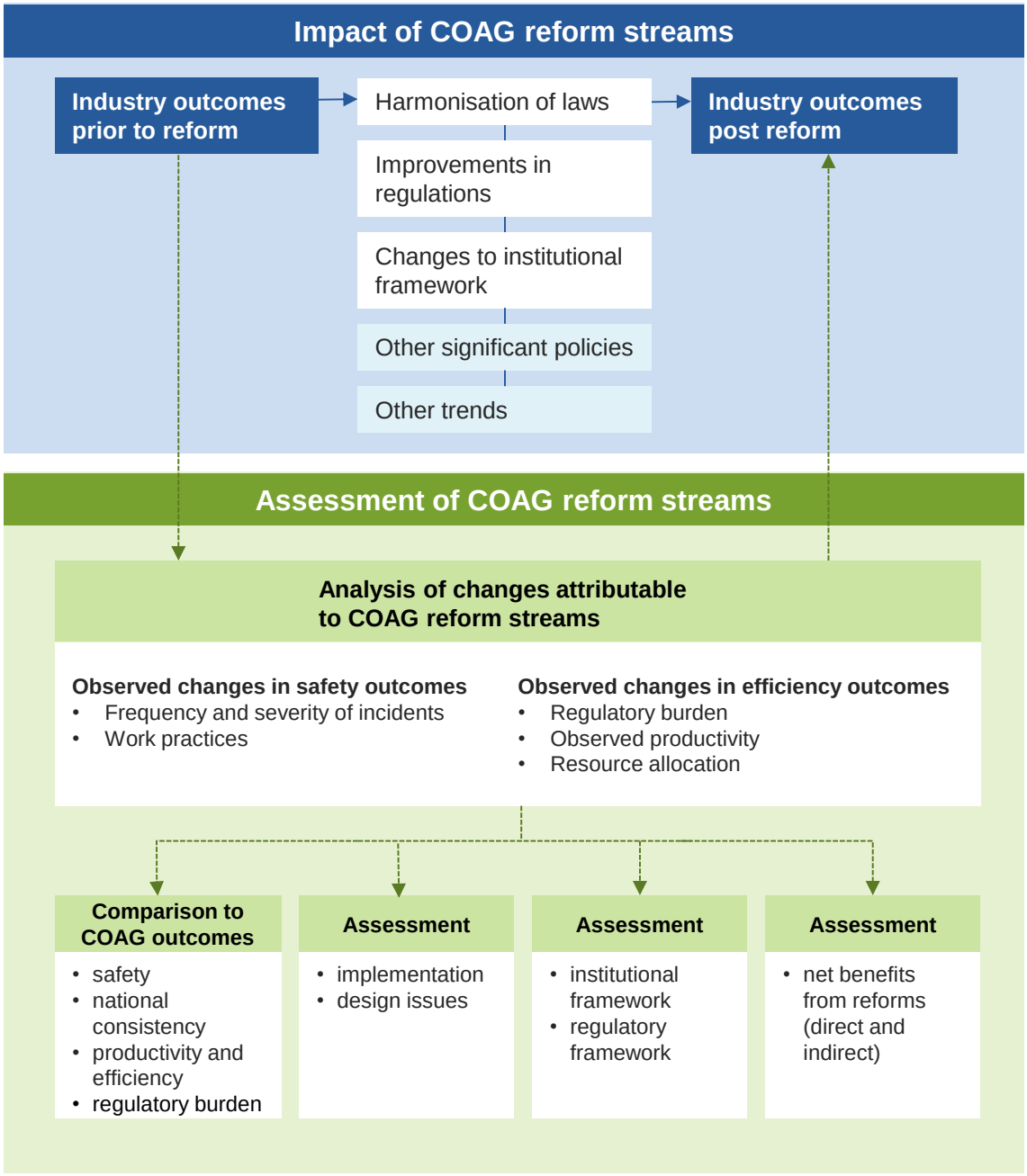
Assessment framework

The remainder of this paper has two parts (sections 4 and 5). The success (or otherwise) of COAG's safety reform agenda is addressed in the first. Reform options beyond the current agenda are canvassed in the second — including reforms to further integrate and harmonise national freight regulation, and to the remit and focus of the national regulators.

A framework for assessing the success (or otherwise) of the reform agenda is laid out in figure 4. Part of the Commission's work in this regard involves an examination of the economy-wide impacts of the reforms. Benefits accrued to the transport industry (defined to include all domestic commercial vessels), industries that interact with transport operators,

governments and the community more broadly are in scope. In undertaking this task, the Commission is interpreting benefits to mean *net* benefits (that is, benefits less costs). And further, the Commission intends to take a broad view of costs. For example, costs could include compliance costs for operators, administrative costs for governments, and any foregone productivity or safety net benefits from delayed or unimplemented reforms.

Figure 4 **Commission's approach to assessing outcomes of COAG's transport regulatory reform streams**



Broadly, this examination task can be broken into two steps. The first step simply involves identifying exactly what problems the relevant reforms were targeting. The success (or otherwise) of the reforms (the 'solutions') can only be meaningfully assessed if the specific problems and solutions are correctly identified in the first instance.

The second step involves estimating the net benefits. These net benefits can be both direct and indirect. Direct net benefits are those accruing directly to individual sectors (that is, operators and employees in the heavy vehicle, rail or maritime sectors). These could take the form of better safety or productivity outcomes, or cost savings from harmonisation. Indirect net benefits are those that flow from the direct effects being passed through to those industries that interact with transport operators, as well as governments and the wider community.

A key challenge in this examination is taking into account the other factors outlined above that have impacted safety and productivity in the transport industry.

The Commission is anticipating that a wide range of qualitative and quantitative tools could be used for this task, as has been the case with previous relevant work (box 1).

INFORMATION REQUESTS/QUESTIONS

In light of the other reviews relating to heavy vehicles where do you think the Commission could best add value to the policy and reform agenda?

Are there any other reviews that the Commission should be aware of?

What other relevant research on the net benefits of transport reform should the Commission draw on?

4 How successful have the reforms been?

This section canvasses issues relevant to the Commission's assessment of the success or otherwise of the reforms — focusing first on whether the intended outcomes have been achieved and the extent to which the reforms have delivered unintended or indirect benefits, and then on the performance of the national regulators and other institutions.

Box 1 **Previous work on reform impacts**

A variety of approaches to assessing reform impacts have been adopted in previous work.

Ex-post reform assessments

Some ex-post assessments use simple, descriptive techniques whereas others use more involved techniques like data envelopment analysis and computable general equilibrium (CGE) modelling.

The simpler approach can be seen in National Transport Commission (2013, 2018b, 2018c) work analysing trends in data to assess the impacts of the Australian Road Rules and Vehicle Standards Rules, the heavy vehicle Performance Based Standards Scheme and best practice for heavy vehicle telematics. Another example is Hassall (2014), who estimated the productivity impact of high-productivity vehicles.

More involved approaches can be seen in the Productivity Commission's (2000) work that used data envelopment analysis to compare the efficiency of the Australian rail system to other countries, and the Commission's (2005) work that assessed the impacts of National Competition Policy reforms using a CGE model.

Ex-ante reform assessments

Ex-ante assessments tend to involve cost-benefit analysis (CBA), CGE modelling or a combination of the two.

Regulation impact statements for the relevant reforms use CBA to determine the net present value of the expected net benefits from reform. Deloitte Access Economics (2019) estimated the net present value of improvements in the heavy vehicles permit system.

Other work goes further and uses estimated expected net benefits from CBA to predict the indirect benefits via a CGE model. For example, the Industry Commission (1991) used this approach to assess the potential impact of commercialising the rail industry. The Productivity Commission (2011) also employed this approach to assess the potential impact of a raft of COAG reforms (which included rail safety harmonisation).

Other work

HoustonKemp (2018) developed a framework on behalf of the Department of Infrastructure, Regional Development and Cities for assessing the benefits of the COAG transport reforms.

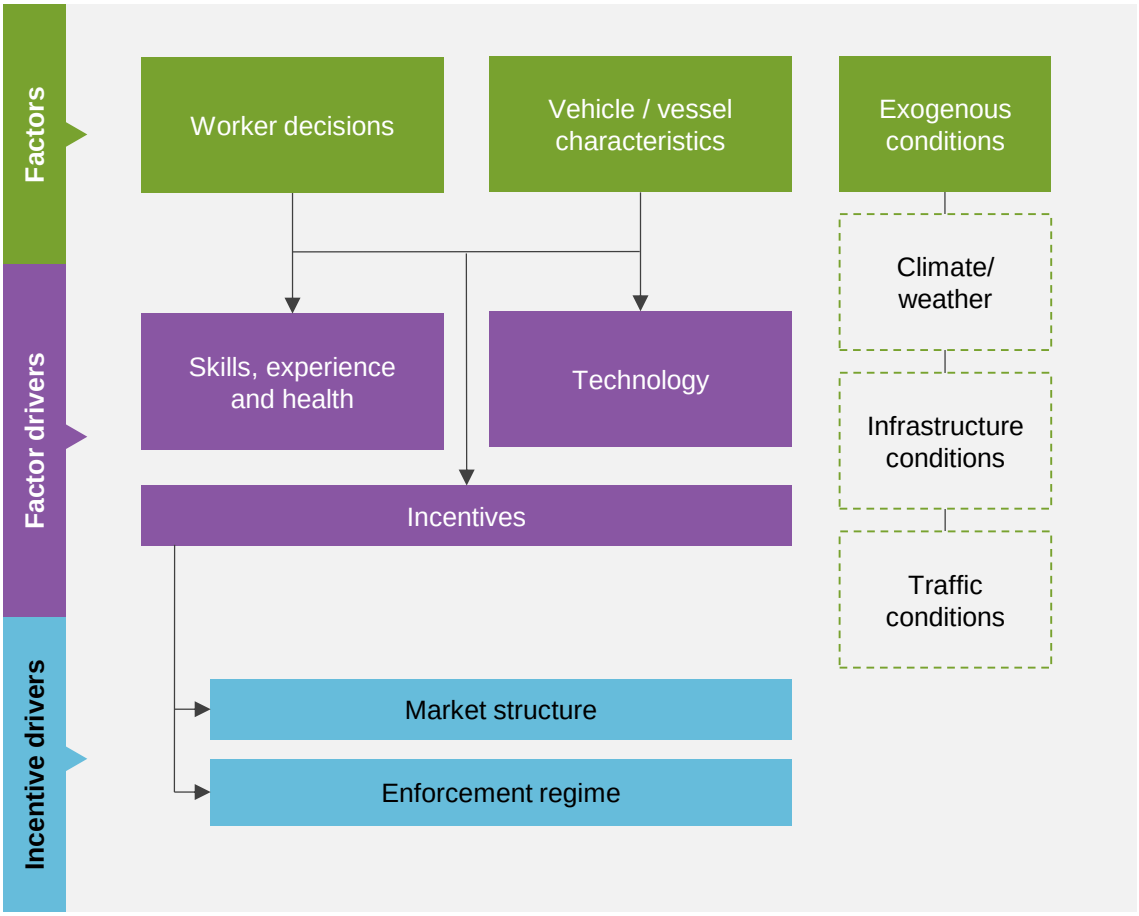
Have safety outcomes improved?

The nature of the transport task means the industry has many inherent risks for workers as well as the public and the environment. And many factors influence safety outcomes.

Safety can be thought of as a product of both the likelihood of an accident occurring and the harm that results when it does. Many forces affect safety outcomes (figure 5). The likelihood of an accident depends on factors including: decisions made by drivers, skippers or other crew; characteristics of a vehicle or vessel (including how well it has been maintained); operating conditions (for example, the state of roads); and the actions of others (for example, other users of waterways). These factors, in turn, are a product of other forces. Decisions made by drivers, for example, are a function of their skills, experience and health (including

how fatigued they are), and the incentive regime they face. The latter is a product, for example, of contract terms, competitive pressures, the nature of regulation and a driver's sense of the chances of being detected should they break the law. In terms of regulation, in addition to the national safety laws, legislation covering, for example, road rules, contracting, dangerous goods transport and workplace health and safety have a bearing on safety outcomes.

Figure 5 **Many forces influence safety outcomes**



In other words, the national laws and regulators are only one influence on safety outcomes. The multiplicity of influences on safety outcomes raises challenges for measurement of the contribution of the national system to any changes in safety outcomes since the system was introduced. The Commission envisages that the direct net benefits from safety related reforms must be assessed by the use of simple methods such as benchmarking (including to other countries) and other descriptive analyses. For example, Hassall (2014) estimates the accident rate (broken down by accident severity) per 100 million kilometres.

Furthermore, development of the national laws involved a process of negotiation and compromise. There is a possibility that the resulting outcome does not fully reflect the original intent of COAG's reform agenda. For example, the regulation might not be best

practice, local variation might be inadequately accommodated, or those charged with implementing it on the ground might be reluctant to depart from a previous regime.

INFORMATION REQUEST

What impact have the national reforms had on safety outcomes?

What impact have other contributors to safety outcomes had since the reforms were introduced?

What impacts do contracting practices and competitive pressures have on safety outcomes? How might these be addressed?

Have any compromises involved in the creation of the national law impacted safety outcomes? Do the national laws reflect best practice safety regulation?

What are the best measures of safety in rail, road and maritime? Where can the Commission source such data?

What changes, if any, to the current system would improve safety outcomes?

What have been the costs, or unintended consequences, of moving towards uniform national standards?

How does transport safety regulation interact with other regulatory schemes, for example, workplace health and safety regulation? Where is there a conflict, what issues arise as a result? How should this conflict be addressed?

Has nationally consistent regulation been achieved?

How national is the national law?

Broadly, the benefits of nationally consistent regulation could include the removal of inconsistent or conflicting regulations between jurisdictions and / or common treatment of similar entities within a jurisdiction, leading to common (and preferred) outcomes. It can also be a force for progressing regulatory reform in the face of inertia, and for ensuring that jurisdictions are not left behind as best practice regulation evolves.

There appears to be some variation in the extent to which the three national transport laws are national (covering all States and Territories) and nationally consistent (operating in the same way across participating States and Territories). This is due, in part, to differences in the development and implementation of the national laws in each transport mode. For example, the MSNL was enacted by the Commonwealth Government, while the HVNL and RSNL followed an 'applied laws' approach to achieving national regulation (table 2). This latter approach involves one state hosting the relevant law (here, Queensland and South Australia, respectively), and other States or Territories apply the law of the host state within their jurisdictions.

Adopting an applied laws approach can affect the extent to which nationally consistent regulation is achieved in a number ways.

First, through the impact on the law's jurisdictional reach, as the applied laws approach requires all relevant jurisdictions to introduce the law locally for it to become national. For example, the HVNL does not apply in Western Australia or the Northern Territory, as these jurisdictions have not yet introduced it (table 2). By contrast, as Commonwealth legislation, the MSNL's jurisdiction is national. Similarly, RSNL has national coverage, as all jurisdictions have acted to adopt it.

Table 2 **Implementation of the national laws**

	Heavy Vehicle National Law	*Marine Safety (Domestic Commercial Vessel) National Law*[a]	*Rail Safety National Law*
Host jurisdiction	Queensland	Commonwealth	South Australia
Non-participating jurisdictions	Western Australia, Northern Territory	-	-
Type of adoption	Mirroring (South Australia), referring (all others)	Referring[b]	Mirroring (Western Australia), referring (all others)
Key jurisdictional changes to the national law	ACT: delayed introduction of speeding, driver fatigue, Intelligent Access Program, accreditation All participants: jurisdiction-specific changes to definitions, exceptions and exclusions	-	All participants: jurisdiction-specific changes to definitions, exceptions and exclusions, additional requirements

[a] While both the relevant Intergovernmental Agreement and the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* refer to the National Maritime Safety Regulator, the law also provided for the appointment of the Australian Maritime Safety Authority (AMSA) to the role. [b] Western Australia has not enacted formal legislation but has agreed to in-principle.

Second, even where national regulation is ultimately achieved, variations in the time taken for individual jurisdictions to introduce and ultimately pass legislation to apply the law locally mean inconsistency in the interim. For example, in the rail context, the process of achieving national regulation was drawn out over a number of years, with the first jurisdiction (South Australia) enacting the RSNL in 2012, and the last (Western Australia), coming under the remit of the ONRSR in 2015. By contrast, as a single piece of Commonwealth legislation, the MSNL essentially applied nationally with immediate effect. This issue may recur where subsequent amendments need to be made to the national law.

Third, the applied laws approach creates opportunities for States/Territories to make amendments, additions, carve-outs and grandfathering arrangements to the national law as it applies in their jurisdictions, which may frustrate the process of achieving nationally consistent regulation. However, this may also occur where Commonwealth (that is, national) legislation is introduced, if compromises are required to obtain the support of the States and Territories during the process of developing the legislation. For example, vessel survey

requirements under the MSNL have been grandfathered for older (existing) vessels, allowing them to continue to meet the survey requirements which applied within their State or Territory before the introduction of the MSNL (Marine order 503, sections 7 and 22).

INFORMATION REQUEST

What have been the practical effects, particularly on safety, regulatory burden, costs and productivity, of:

- *States and Territories not participating in the national approaches? For example, has non-participation by Western Australia and the Northern Territory caused complications for industry?*
- *variations between States and Territories in the time taken to pass legislation to apply a law or make amendments? For example, does interstate variation in the speed with which amendments take effect have an impact on operators?*
- *State and Territory government exemptions from the national laws? For example, does the grandfathering from survey of some vessels have any safety implications?*

Should any inconsistencies in the current system be addressed? If so, what are these and how should they be addressed?

What are the effects of remaining State-level regulation and regulators?

Although the COAG reform process has led to the introduction of national regulatory systems for heavy vehicle, marine and rail transport some service delivery and regulatory functions continue to sit with the States and Territories.

On service delivery, Tasmania and South Australia, for example, have transitioned the delivery of national heavy vehicle regulatory services to the NHVR. Services associated with national regulation continue to be delivered by local regulators under Service Level Agreements in other participating jurisdictions. And local regulators in Tasmania and South Australia continue to deliver services associated with remaining State-level regulation.

On regulatory functions, each State and Territory, for example, continues to be responsible for the registration of heavy vehicles. In the maritime context, the States and Territories continue to be responsible for drug and alcohol regulation.

On the one hand, the existence of State-level law might create challenges for operators crossing borders. On the other hand, it might confer some potentially important benefits:

- Specific local conditions might mean that State-level regulation leads to safer outcomes (avoiding a one-size-fits-all approach).
- If regulatory reform is required, States and Territories may be able to respond more flexibly in the interests of their constituents than a national government.

- Applying individual rules and regulations allows States and Territories to compete in the development of regulation. This 'competitive federalism' allows jurisdictions to learn from each other, and to identify desirable features of regulations to implement, while potentially avoiding less effective or overly burdensome regulatory interventions.
- Significant compromises required in the move to national law (or harmonisation) can potentially result in regulation that is not best practice.

INFORMATION REQUEST

What have been the practical effects, particularly on safety, regulatory burden, costs and productivity, of:

- *the co-existence of national and State-level regulation? For operators? For regulators?*
- *variation in remaining State-level regulation?*

Are there other examples of inconsistency? If so, what has been their practical effect?

Should any inconsistencies in the current system be addressed? If so, how?

Have regulatory burden and costs fallen?

Have regulatory burden and compliance costs fallen for industry?

The creation of national systems has inevitably resulted in some changes for operators. In some instances, the nature of the regulation has changed — for example, operator qualifications. In other cases, the regulator has changed — for example, domestic commercial vessel operators in most states now deal with AMSA rather than a State or Territory regulatory body. The approach for complying with regulation may also have changed — for example, from provision of vessel survey services by the State regulator to provision by a private operator.

It may also be that operators are now paying more for some regulatory services due to a shift to a cost recovery model and the winding back of subsidies.

This process of change may well have entailed some transitory costs for operators, but where the new system has been bedded down (and taking in account the impact of any removal of cross subsidies), regulatory burden and the costs of complying with regulation should be lower if the intent of the IGAs and COAG's broader agenda has been realised. The regulatory environment should be less complex, more certain and lower cost.

Have administrative costs fallen for governments?

Similarly, governments are likely to have faced transitory costs in moving from State and Territory based regulatory approaches to a national approach. If the intent of the reform agenda has been realised, the costs to governments of administering regulatory regimes for safety in the heavy vehicles, rail and maritime sectors should have fallen.

INFORMATION REQUEST

How has the move to a national regulatory system affected operators' regulatory burden and compliance costs?

How has the move to a national regulatory system affected the costs to government of administering transport safety regulation?

How might the costs and benefits of any changes in regulatory burden, and any changes in compliance or administrative costs best be measured? Where can the Commission source relevant data?

How might any unnecessary regulatory burden and compliance or administrative costs be reduced?

Have productivity and efficiency improved?

Unlike the RSNL and MSNL which focussed on safety (with efficiency gains a potential by-product of improved safety), more consistent regulation and reduced compliance costs, the HVNL also contained explicit measures to improve productivity.

Put simply, productivity refers to the efficiency with which the transport task is carried out. In the case of heavy vehicles, productivity can be broadly understood as the value of transporting freight a given distance relative to all of the costs associated with that transportation. In the context of the Commission's task, this suggests that costs are best estimated as the dollar cost per tonne kilometre. For example, improving access for performance-based standards vehicles might lower operators' dollar cost per tonne kilometre.

More broadly, the Commission envisages that productivity net benefits could be best assessed through the use of simple, descriptive methods. For example, Deloitte Access Economics (2019) and Hassall (2014) both used simple, bottom-up methods to estimate the productivity impact from an increase in the use of larger, more productive heavy vehicles (*ex-ante* and *ex-post*, respectively).

However, more complex techniques might be needed to isolate the impact of specific HVNL productivity-related reforms from wider productivity trends driven by complementary reforms and technological change.

INFORMATION REQUEST

Is the Commission's understanding of heavy vehicle productivity accurate?

How can heavy vehicle productivity be best measured?

Have there been changes to heavy vehicle productivity since the national reforms were implemented? If yes, how did the reforms contribute relative to other productivity drivers?

What has been the cost of implementing the heavy vehicle productivity reforms for government and operators?

Where can the Commission source data relevant to the above lines of inquiry?

If the relevant reforms have improved safety, has this led to productivity benefits for operators? If so, how do these manifest and how can they be measured?

What other effects, if any, have the reforms had on the productivity and efficiency of the transport industry? What are the main drivers of any such effects?

What changes to the current system could improve productivity outcomes?

Should the remit of ONRSR and AMSA be expanded to include productivity objectives or should this be the responsibility of other institutions and agents?

Have the reforms delivered indirect benefits?

A range of parties beyond the heavy vehicle, rail and maritime industries might have benefited indirectly from the reforms, including industries that interact with the transport industry, governments and the community. These indirect net benefits could have stemmed from many sources. One obvious example is the flow-on effect of improved transport efficiency to lower prices for industries that interact with the transport industry and, ultimately, consumers. Another is a potentially reduced risk of harm to members of the community outside the transport industry. However, there are also less obvious sources. For example, improved safety may have led to lower disability support and injury compensation payments for governments.

Estimation of these indirect net benefits may require more advanced methods than those employed to estimate the direct net benefits. Indirect net benefits arise from economic and policy interactions, and valid estimation of them therefore needs valid identification of the underlying relationships between the transport industry, the industries it interacts with, the government and the broader community.

Other, less tangible, indirect benefits may also have arisen. For example, the creation of a national system might have made it easier to change and improve regulation than was the case under State-based regulation. In addition, the process of transferring functions to the national regulator might have caused States and Territories to examine both what and how they deliver the regulatory functions remaining within their jurisdiction.

INFORMATION REQUEST

What, if any, indirect benefits have flown from the reforms to industries that interact with the transport industry, governments and the broader community? For example, have any cost savings been realised?

What data and tools should the Commission draw on to estimate any indirect net benefits?

Has the creation of a national system made it easier to change regulation?

Has the creation of a national system had any effects on other areas of regulatory effort, for example, on the residual functions retained by States and Territories?

How have the regulators performed in undertaking their regulatory functions?

Introducing national regulators for heavy vehicle, maritime and rail safety was one of the key objectives of the COAG transport reforms. As part of assessing whether the reform agenda has delivered against COAG's objectives, the Commission is to consider the effectiveness of the regulators. A set of criteria that could be used in this assessment is set out in box 2.

The regulators operate as a part of complex regulatory systems, and have wide-ranging responsibilities, covering general compliance and enforcement, standard setting (such as qualifications and licencing requirements), the provision of information and guidance, and general service delivery (such as processing applications for licences or permits). Effective conduct of these duties requires adequate resourcing (both financially and in terms of the knowledge and skills of their staff), and adequate enforcement powers. The regulators are funded through a combination of government contributions and industry fees, such as registration or licencing fees, typically on a cost-recovery basis. Enforcement and compliance can be risk-based or more prescriptive.

The performance of the regulators also depends on whether appropriate accountability and transparency measures have been put in place. This may include ensuring processes are in place for stakeholders to comment on proposed changes to regulations or standards, with detailed justifications given for any proposed changes. It may also include ensuring that, where multiple regulatory bodies are operating in the same environment, lines of responsibility and accountability are clear.

Box 2 **Principles for effective regulatory bodies**

Capability — Regulatory bodies need adequate finances to operate efficiently and suitably skilled staff to perform their functions.

Role clarity — The roles and responsibilities of each regulator and other related parties need to be clearly specified and understood by all concerned. This promotes efficiency, accountability, public trust and confidence.

Effective management of conflicting objectives and functions — Multiple functions can lead to conflicts and (perceived) underperformance. This is avoided by separating regulatory, service delivery and policy making functions into different institutions.

Accountability — Public institutions are accountable to governments, to regulated entities and to the public. Accountability is supported by an effective monitoring and reporting framework and by transparent decision making processes.

Effective collaboration — Collaboration amongst government institutions helps avoid duplication and inefficiencies. Effective collaboration depends, among other things, on a commitment by all parties to shared goals, cooperative working arrangements and effective communication between parties about shared programs and functions.

Effective engagement of stakeholders — Meaningful engagement with stakeholders about government decisions helps to facilitate more effective regulatory decisions and implementation, whilst promoting transparency and accountability.

Sources: ANAO (2014, 2018); OECD (2014); PC (2018).

INFORMATION REQUEST

Are the regulators effective? Are they adequately resourced? Do they have appropriate powers to achieve their objectives?

Where regulatory arrangements are not operating as expected, what are the reasons? For example, are there issues with the regulatory structure or with government policies? How might any issues best be addressed?

Are current accountability arrangements for the national regulators effective? If not, why not and how might they be improved?

Implementation and development of the national regulators

In general, the implementation of the national regulators has been an extended process taking much of the past decade and it remains a work in progress. For example, some States are still in the process of transferring regulatory functions to the NHVR, and Victoria has not yet transferred its regulatory responsibilities in rail to the ONRSR.

The slow implementation process likely reflects, to an extent, the need for an orderly transition from State-based regulation to national regulation, to minimise overall disruption to industry. However, the delays and hiccups may indicate an overly ambitious reform

agenda, inadequate pre-implementation planning and / or significant resourcing issues which may have impeded the regulators' progress. The introduction of the permit system for road access, which saw the NHVR temporarily hand control back to the State and Territory regulators, is a case in point.

In many cases, interim arrangements to smooth the implementation process have been agreed by the national and State-based regulators. For example, until 30 June 2018, AMSA delegated its service delivery functions to the State-based maritime agencies. While these arrangements may have provided some stability for industry, they may also have led to inconsistent regulatory approaches being applied across jurisdictions, particularly where States or Territories have different regulatory cultures and priorities. These arrangements might have impacted on the performance of the national regulators, particularly in terms of their ability to adopt a consistent national approach to enforcement and compliance.

A range of other factors might have affected the implementation and development of the regulators. For example, in accepting functions and transferring resources and information, State-based regulatory agencies may have faced unexpected losses of knowledge and capability, and a loss of overall synergies where staff were / are performing both local and national functions.

INFORMATION REQUEST

What kinds of implementation issues are still to be resolved?

Have there been any limitations on the national regulators arising from the original COAG negotiations? Grandfathering arrangements or service level agreements might be examples. Are these limitations still in force? If so, are they still appropriate?

What if anything, needs to be done to address any outstanding implementation issues?

How have other institutions performed in supporting the reform agenda?

Local government?

Under State legislation, local governments are the road managers for local roads, responsible for decision making, investment and maintenance. This role is consistent with the idea of 'subsidiarity' namely that responsibility for a function should generally be assigned to the lowest level of government possible and therefore closest to those most affected by the decision. This is not a hard and fast rule, and there are many reasons why a higher level of government might be better placed to manage responsibilities, including economies of scale or scope, and issues around boundaries with and impacts on other jurisdictions.

Before the heavy vehicle reforms, local government was a decision maker on access for heavy vehicles in some States but not in others. Even when local government had formal

decision making responsibility, in practice access decisions were often made by State-level road authorities.

The HVNL elevated the practical role of local government as decision makers. The law requires access requests to be made to the NHVR, and for the NHVR to consult road managers. Under the law, final decisions on access and any conditions on access are made by the road managers.

There are more than 500 local governments — from the smallest (the Shire of Peppermint Grove in Perth) covering 1.5 square kilometres to the largest (the Shire of East Pilbara) covering 380 000 square kilometres — with responsibility for over 600 000 km of local roads. They have varied populations, revenue sources and technical capacities and this can limit some councils' capacity to meet their responsibilities under the reforms.

If local governments are not processing access requests from heavy vehicle operators quickly and accurately, the reforms intended productivity gains might not have been realised. For example, the last mile problem occurs when operators must transfer products from one form of transport (for example, large vehicles or rail) to another (for example, small trucks) because access to the collection or delivery point in the freight chain is constrained. Such multiple handling adds costs and delays. Likewise, permitting arrangements for over-size, over-mass vehicles affect both transport operators and business in other industries. The reforms were intended to improve Australia's management of these issues.

The second major new role for local government in the reforms was as parties to interface agreements under the RSNL. The law requires road managers and track owners to undertake risk assessments and take appropriate action to ensure safety at level crossings and other places where roads and rail connect. There are tens of thousands of level crossings in Australia and there is a big task in assessing all of these locations.

Local governments also have responsibility for other issues that can affect the efficiency of the supply chain, including helping shape access to ports and airports, building and maintaining much of the road infrastructure and managing urban development, including maintenance of transport corridors.

INFORMATION REQUEST

Are the current roles and responsibilities (for transport regulation) of each level of government clear and appropriate? If not, what changes (if any) to the roles of the different levels of government would support a safer national system of transport?

Are the national transport regulators working effectively with local governments?

Does the current regulatory framework achieve an appropriate balance between local and national interests? Issues here might include the level of truck traffic on local roads or the reservation of corridors for future freight traffic. Are decisions made by the right level of government?

INFORMATION REQUEST

Does local government have the resources, access to data and expertise needed to process access applications efficiently, evaluate the impact of road access decisions on the supply chain, or to take into account broader demographic and technological shifts?

- *If not, what options might be available to support local governments to perform these functions?*

Has the involvement of local government in heavy vehicle access approvals contributed to efficiency improvements or better investment decisions?

Where disputes about access arise, are these being resolved in an effective way?

Is the process of completing interface agreements working effectively?

What practical changes would lead to more effective regulatory arrangements involving local government approval processes?

Other bodies?

A range of other agencies is involved in supporting the COAG transport agenda (figure 2), with implications for the role and the effectiveness of the national regulators.

Various agencies are involved in setting standards, constraining the capacity of national regulators to achieve safety and productivity objectives. In rail, the Rail Industry Safety and Standards Board assists the industry to achieve safety outcomes including through the setting of standards. In road, the Australian Department of Infrastructure, Regional Development and Cities is responsible for developing and maintaining national standards for heavy vehicles (through the Australian Design Rules). The Department seeks to ensure the standards are performance-based, and conducts an ongoing consultative process of reforming standards, in part to try to keep pace with new technologies.

Activity within intermodal transport hubs may require the involvement of several regulators. Heavy vehicles, rail, ships and port infrastructure are all part of the operation of a port, for example, thereby involving the regulators of each mode in the regulation of a port.

The Australian Transport Safety Bureau (ATSB) is Australia's national transport safety investigation agency in aviation, rail and maritime. An independent statutory agency of the Australian Government, the ATSB takes a no-blame approach to investigation. Its sole focus is the prevention of future accidents and the improvement of safety. State-based institutions also have investigative responsibilities in rail and maritime, raising the prospect of duplication of resources or even conflict with the ATSB.

INFORMATION REQUEST

How is the effectiveness of the national regulators in pursuing the objectives of the COAG transport regulatory reforms affected by the various other government bodies that help to regulate transport?

Does the involvement of these other agencies in setting standards complement or undermine the role of national regulators in meeting safety and productivity objectives? Are there opportunities to make these arrangements work better?

Several regulators have responsibility for regulating intermodal transport hubs such as a port. Are there opportunities for improvement?

How well is no-fault accident investigation working in maritime and rail? Is there a case for no-fault accident investigation in heavy vehicles? If so, how might it best be achieved? Would the ATSB — properly resourced — be the best agency to undertake this investigation?

Multiple bodies are involved in enforcement, including police and the regulators. Are there opportunities to make this work better?

5 Further opportunities to improve safety and productivity

As noted above, this inquiry is to include an examination of opportunities for reform to further integrate and harmonise the regulation of the national freight market, and to examine the remit and focus of the national regulators. The nature of this task is forward-looking, as distinct from other parts of the inquiry that focus on the effectiveness of past reforms (although questions posed above about how the current system might be improved have clear implications for the future). Moreover, this task is not necessarily limited to changes in national safety laws or in the operation of the national transport regulators. It may also, for example, include the broader roles of each level of government (for example, in the planning and provision of infrastructure).

In addition, opportunities for further reform could relate to both the immediate future and the longer term, and potentially involve the role of public policy in facilitating and responding to future developments in transport (for example, technological change and digitalisation).

Broadly, reform opportunities might lie in further integration of the transport sector and in new developments in transport. The role of government, and the national regulators in particular, with respect to these opportunities merits consideration.

Opportunities for further integration

While the COAG reform streams sought to establish systems of national regulation, there remain many exceptions. For example, matters excluded from the national laws remain in the control of State and Territory regulators. Further harmonisation might convey benefits. However, as noted above, benefits can also lie in regulatory variation, such as regulation that best suits the particular circumstances of a jurisdiction. Moreover, depending on the situation, initiatives to achieve greater integration could draw on mutual recognition or regulation to ensure that different regimes are interoperable instead of further harmonisation.

The intermodal nature of transport

While regulation has traditionally been separated by mode of transport, there is increasing recognition of the importance of the intermodal perspective. This is evidenced by the development of both the National Freight and Supply Chain Strategy and the National Ports Strategy (DIRDC 2018; Infrastructure Australia and NTC 2011). This shift in focus suggests that some policy issues not only require further coordination between levels of government, but also that many areas of policy could involve, or have an impact on, more than one mode of transport.

There remains a question of how governments and regulators can best serve the need for intermodal transport policy. For example, no regulatory body spans all forms of transport.

INFORMATION REQUEST

What are the impediments to further harmonisation within the three transport modes? What are the best options to address those impediments? What net benefits might be expected from achieving common systems and consistency?

Interoperability within and across the three modes is becoming more important — how might regulatory structures best support this?

Would there be net benefits from further harmonisation and joint operations and policies amongst the four national safety regulators (including the Civil Aviation Safety Authority)?

Future developments in transport and the role of governments

While the Commission is considering the long-term impacts of recent and current reform agendas, it is often noted that the transport and freight industry in 20–30 years' time is likely to be vastly different to that of today (NTC 2018a; Transport for Victoria 2018). For example, in considering scenarios for transport in the year 2040, the NTC highlighted the plausibility of automation, shared mobility, data availability and sharing, and changes to consumer demand.

Industry-led innovations will play a key role in the safety and productivity of transport in the future. While such changes are often difficult to predict, some emerging technologies appear likely to occur within the foreseeable future, and could substantially change the way the industry functions.

Furthermore, for heavy vehicles, the adoption of new technology is subject to approval according to design standards. This process involves the national regulator, the Australian Motor Vehicle Certification Board and the Department of Infrastructure, Regional Development and Cities, which collectively determine the specifications of heavy vehicles allowed on Australian roads. The incentives for operators to use the latest equipment (and to innovate) can also be influenced by the decisions of road managers, particularly where such equipment results in additional weight.

In short, various technological advances could have significant, but varied, implications for the role of government. The remainder of the paper considers some aspects of digitalisation that, in particular, raise a range of questions about the appropriate regulatory regime and the provision of infrastructure.

INFORMATION REQUEST

Where are the biggest opportunities for future safety and productivity gains in the transport sector, and what impediments exist? What new challenges may arise?

What role should the regulators play in achieving these outcomes and how might they need to change to do so? How might other institutions need to change to make the work of the regulators more effective? Some of these other institutions might include, but are not limited to:

- *the different levels of government*
- *road managers*
- *the Australian Motor Vehicle Certification Board*
- *the Rail Industry Safety and Standards Board.*

Digitalisation and the use of data

Progress in digital technology has created opportunities in freight and logistics. One example is the potential for new business models in road freight, similar to ride-sharing apps commonly used in passenger travel. Uber operates a freight business in the United States whereby heavy vehicle owner / drivers can register their availability for transport tasks via a platform app. At least one business operates a similar model in Australia (Eastern Plant Hire 2019). If these arrangements become more common, they could have implications for how safety issues are managed by industry, and how regulators interact with stakeholders.

A second example relates to the use of data to monitor and manage traffic flows, specifically with regard to freight movements, as highlighted by the Victorian Government (Transport

for Victoria 2018). Logistics companies commonly track their fleets for internal commercial purposes, and, while such data are likely to have some commercial sensitivity, those same companies could potentially benefit if data were shared with a central depository. Such sharing could support better management of traffic flows by traffic authorities, or allow individual vehicle operators to change routes in real time to avoid congestion.

The Commonwealth Government has recently committed funding for the design of a freight data hub, including arrangements for data collection, protection, dissemination and hosting (Commonwealth of Australia 2019, p. 145). It has also committed to the establishment of a freight data exchange pilot to allow industry to access freight data in real time and a survey of road usage for freight purposes. Important questions remain as to the institutional and governance frameworks around these measures, and whether there would be a role for existing government agencies, new institutions or the national safety regulators.

INFORMATION REQUEST

What role should national safety regulators play in the management, collection, sharing and usage of logistical data?

Digitalisation and automation

Policy-makers and regulators have recently turned their attention to the introduction of autonomous (that is, self-driving) road and rail vehicles in Australia. These vehicles are designed to effectively replace some or all of the operational responsibilities of the human driver with a computer-based artificial intelligence system (box 3). Such vehicles have significant potential to affect both the productivity and safety of transportation, as labour inputs are partially or completely replaced by capital.

The ONRSR has already approved an autonomous freight rail system used by Rio Tinto on a private network (Smartrail World 2018). Given that this train will run on a private rail network, the productivity benefits would be captured by the owner / operator of the rail, and any risks to community safety are relatively contained. Similar technology has been used for the development of autonomous passenger trains for the Sydney Metro, which have already taken their first trips (Sanda 2019; Wiggins 2018).

The introduction of autonomous road vehicles may have much broader impacts on productivity and safety, given the significant number of drivers involved in heavy vehicle freight, the complexity of road travel, and the significant number of road users. The wide-ranging effects include changes to transport demand, infrastructure needs, issues of public safety and regulatory compliance (PC 2016, pp. 177–82). The implications of these technologies (for both productivity and public safety) would vary according to the degree and nature of automation (box 3).

Box 3 **Automation of driving and regulatory progress**

Levels of driving automation

According to international standards set by SAE International (2018), the level of automation in the driving task is differentiated according to whether a human driver or a computer system is responsible for particular driving tasks. For example:

- in 'driver assistance' and 'partial automation' (levels 1 and 2), a computer system may have some or all responsibility for vehicle control (i.e. the execution of steering, acceleration, and deceleration), while a human driver would remain responsible for monitoring the driving environment.
- in 'conditional automation' (level 3), the system is responsible for both controlling the vehicle and monitoring the driving environment, with the expectation that the human driver will respond appropriately to a request to intervene.
- in 'high automation' and 'full automation' (levels 4 and 5), the system controls all aspects of the dynamic driving task, with the main difference being whether a human driver engages the autonomous mode.

Progress on regulatory frameworks

In November 2016, Australian transport ministers agreed to a phased program so that 'conditionally automated vehicles' (with a supervising human driver) could operate safely and legally on our roads before 2020, while highly and fully automated vehicles could do likewise from 2020.

In November 2018, following a comprehensive consultation and review process, the National Transport Commission recommended that a safety assurance system for automated driving systems be:

> … administered by a government authority, preferably on a national basis. Approval decisions may be made on the advice of a single national government panel consisting of the Commonwealth, states and territories, the NTC, the National Heavy Vehicle Regulator and Austroads (NTC 2018d, p. 2).

Several regulatory regimes could be affected by the introduction of autonomous vehicles. For example, passenger cars and heavy vehicles are currently subject to separate national processes for design and manufacture approval. Road rules are set by State authorities, as is the licensing of drivers. In 2016, the NTC identified '716 specific provisions from two conventions, 32 acts and 21 regulations, which are relevant to automated vehicles' (NTC 2016, p. 2).

Autonomous vehicle technology would be of particular relevance to the freight sector, given the potential for cost savings and productivity improvements. In the United States, one company is operating autonomous heavy vehicles on interstate highways, driven with human supervision (Embark Trucks 2019). Interstate road freight (generally undertaken by heavy vehicles), may be a natural point of early adoption for autonomous vehicles, given the relative simplicity of highway driving.

In 2018, the NTC recommended establishing a regulatory framework for automated vehicles, administered on a national basis, involving various levels of government, as well as the national regulator for heavy vehicles (box 3). Establishing such a national framework is

likely to be a substantial and complex undertaking, given the intersections and interactions with other regulatory frameworks.

While much of the expected productivity benefit of automation is likely to be associated with mature technologies, international experience suggests that some significant public-safety issues exist during the trial phase and early adoption, when technologies and protocols are still in development (Merkel 2018). At the same time, these early phases are key in ensuring investment in such technologies and associated infrastructure.

INFORMATION REQUEST

Are there other technological changes and technologies emerging with the potential to significantly affect the transport sector?

How should regulatory arrangements take account of technological changes and emerging technologies? Are current arrangements fit for purpose?

What role, if any, should existing regulators have in encouraging better use of technology and ensuring public safety?

What role, if any, should national transport regulators and other government agencies play in the sharing, collection, management and usage of logistical data?

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Attachment A: Terms of reference

Inquiry into national transport regulatory reform

I, Josh Frydenberg, Treasurer, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake an inquiry into national transport regulatory reform.

Background

Australian governments have been working collaboratively towards safer and more integrated national markets in transport arrangements for a number of years, with the aim of improved outcomes in freight and passenger transport markets.

In 2008-09, the Council of Australian Governments (COAG) agreed national transport reforms for heavy vehicles, rail safety, and domestic commercial vessels. Inter-Governmental Agreements (IGA) were agreed in 2011, specifying objectives for reform in each area. The IGAs provided for the establishment of national laws for each area, administered by newly established national regulators, the National Heavy Vehicle Regulator (NHVR), the Office of the National Rail Safety Regulator (ONRSR), and the National Marine Safety Regulator (NMSR). To help ensure that reforms progress as intended, COAG agreed in 2011 that the Productivity Commission would undertake an assessment of the economic benefits of reform once there had been progress with implementation.

Complementing earlier transport reforms, in July 2018, the Council of Australian Governments' Transport and Infrastructure Council agreed a framework for developing a 20-year national Freight and Supply Chain Strategy, which is being informed by the outcomes of the Inquiry into National Freight and Supply Chain Priorities.

Scope of the inquiry

The Productivity Commission is to investigate the long-run economic impacts of transport regulatory reforms agreed by COAG in 2008-09 relating to heavy vehicle safety and productivity, rail safety and maritime safety and to make recommendations for further reforms towards a more integrated national market for transport services.

In undertaking the inquiry, the Commission should examine:

1. the benefits accrued from each reform stream (heavy vehicle, rail safety and maritime safety). In assessing the economy-wide impacts, the Commission should consider:
   (a) the benefits derived directly to the transport industry

(b) the benefits derived for the community from consistent national safety regulation

(c) the benefits derived through the transport industry's role as an input to other industries

(d) the impact of cross border consistency for industry and governments

(e) relevant global or domestic changes impacting the transport economy since 2008

(f) the most important contributors to the benefits of transport reforms.

2. the implementation and development of the three national regulators (heavy vehicle, rail safety, and maritime safety), and the delivery against agreed objectives as set out in the IGAs and COAG priorities for transport. The Commission should also consider the capacity of local governments in supporting the implementation.
3. opportunities for reform to further integrate and harmonise the regulation of the national freight market, and the current focus and remit of ONRSR, NMSR and NHVR.

The Commission should also take into account the broader reform objectives and goals identified in the COAG Communiqués of 2008-09 and associated intergovernmental agreements, as well as in relevant IGAs implemented since.

The Commission should have regard to work being undertaken by the Commonwealth, States and Territories on complementary reforms including (but not limited to) rail standards harmonisation and interoperability, improved network access for higher productivity vehicles and the development of the National Freight and Supply Chain Strategy.

In undertaking its analysis, the Commission should exclude reform measures being progressed separately, such as cost reflective heavy vehicle pricing, as far as is practicable.

Process

The Commission is to undertake an appropriate public consultation process including holding hearings, inviting public submissions and releasing a draft report to the public.

The Commission should complete the inquiry within 12 months of its commencement.

The Hon Josh Frydenberg MP
Treasurer

[Received 5 April 2019]

Attachment B: How to make a submission

How to prepare a submission

Submissions may range from a short letter outlining your views on a particular topic to a much more substantial document covering a range of issues. Where possible, you should provide evidence, such as relevant data and documentation, to support your views.

Generally

- Each submission, except for any attachment supplied in confidence , will be published on the Commission's website shortly after receipt, and will remain there indefinitely as a public document.
- The Commission reserves the right to not publish material on its website that is offensive, potentially defamatory, or clearly out of scope for the inquiry or study in question.

Copyright

- Copyright in submissions sent to the Commission resides with the author(s), not with the Commission.
- Do not send us material for which you are not the copyright owner — such as newspaper articles — you should just reference or link to this material in your submission.

In confidence material

- This is a public review and all submissions should be provided as public documents that can be placed on the Commission's website for others to read and comment on. However, information which is of a confidential nature or which is submitted in confidence can be treated as such by the Commission, provided the cause for such treatment is shown.
- The Commission may also request a non-confidential summary of the confidential material it is given, or the reasons why a summary cannot be provided.
- Material supplied in confidence should be clearly marked 'IN CONFIDENCE' and be in a separate attachment to non-confidential material.
- You are encouraged to contact the Commission for further information and advice before submitting such material.

Privacy

- For privacy reasons, all **personal** details (e.g. home and email address, signatures, phone, mobile and fax numbers) will be removed before they are published on the website. Please do not provide a these details unless necessary.
- You may wish to remain anonymous or use a pseudonym. Please note that, if you choose to remain anonymous or use a pseudonym, the Commission may place less weight on your submission.

Technical tips

- The Commission prefers to receive submissions as a Microsoft Word (.docx) files. PDF files are acceptable if produced from a Word document or similar text based software. You may wish to research the Internet on how to make your documents more accessible or for the more technical, follow advice from Web Content Accessibility Guidelines (WCAG) 2.0<http://www.w3.org/TR/WCAG20/>.
- Do not send password protected files.
- Track changes, editing marks, hidden text and internal links should be removed from submissions.
- To minimise linking problems, type the full web address (for example, http://www.referred-website.com/folder/file-name.html).

How to lodge a submission

Submissions should be lodged using the online form on the Commission's website. Submissions lodged by post should be accompanied by a submission cover sheet.

Online*	www.pc.gov.au/transport
Post*	National Transport Regulatory Reform Productivity Commission LB2 Collins Street East, Melbourne Vic 8003

* If you do not receive notification of receipt of your submission to the Commission, please contact the Administrative Officer.

Due date for submissions

Please send submissions to the Commission by **28 June 2019**.