

Submission to the 2015 Review of the NTC

Overview

1. The NHVR believes that the NTC plays a role in national transport policy development. Accordingly, the NHVR supports the continuation of a refocused NTC. The NHVR recognises the broad mandate of the NTC which extends beyond the heavy vehicle sector of the road transport industry, the NTC's current mandate has direct and indirect impact on that sector.

2. The NHVR suggests some options to strengthen the regulatory and operational policy settings to improve the operation of the NTC, the NHVR, the Transport and Infrastructure Senior Officials Committee and national reform processes, while providing greater clarity to the heavy vehicle part of the transport industry on the respective roles of each body.

The role of the NTC in operational policy development

3. Despite the creation of the NHVR and the Office of the National Rail Safety Regulator (ONRSR), the Intergovernmental Agreement on Regulatory and Operational Reform in Road, Rail and Intermodal Transport was not substantially altered. The NTC maintains, in its functions, the ability to undertake operational reform in heavy vehicle regulation, although this is also within the primary remit of the NHVR.

4. This could cause duplication of effort and confuse the heavy vehicle industry. Even so, to date there have been joint projects and good working relationships between the NTC and the NHVR, including on vehicle standards where the support of the NTC has been of considerable benefit in progressing projects.

5. Equally the joint review of NHVAS and roadworthiness has involved a cooperative and successful relationship.

6. The NHVR does not believe that it is appropriate to rely purely on ad hoc co-operative relationships and suggests that the Intergovernmental Agreement on Regulatory and Operational Reform in Road, Rail and Intermodal Transport be amended to remove the reference to the NTC having a role in operational policy.

7. Such an amendment would allow the two organisations to continue to work closely but provide clear delineation for industry and States and Territories on the primary functions of the respective organisations.

The role of the NHVR in legislation policy development

8. While governments have often separated high level policy development from regulatory functions (including service delivery and compliance activities), there is a growing recognition of the need to connect policy development and regulatory activity effectively so that:

- a. those charged with delivery are more responsive to policy;
- b. more effective processes of consultation are used; and
- c. policymakers have a more realistic understanding of what their proposals will mean in practice.

9. A strong and unimpeded focus on operational policy improvements within the NHVR would accord with the substance of the Commonwealth Government's *Guide to Efficient Regulation*.

10. The NHVR currently has a role through the National Partnership Agreement to participate in national heavy vehicle policy and regulation development. However, the National Partnership Agreement is time limited and the NHVR believes that this role should be reflected through amendments to the Intergovernmental Agreement on Regulatory and Operational Reform in Road, Rail and Intermodal Transport or through changes to the *National Transport Commission Act*.

11. This would ensure that the NTC consults and develops proposals that affect the operation of the NHVR in conjunction with the NHVR to allow for a full assessment of the impact of the proposal.

12. Ultimately it is for Ministers to determine who is responsible for the development of legislated policy. Should Ministers determine that the NTC should not continue at all or in relation to heavy vehicle

regulatory policy, with responsibility for proposing changes to the Heavy Vehicle National Law to transfer to the NHVR (or any other body), a suitable transition period would be required.

13. The NHVR does not currently have the ongoing financial capability to manage significant policy development required to deliver fully the 'One Rule Book, One Regulator' vision enshrined within the Heavy Vehicle National Law. Therefore a suitable period and funding stream would be required for the NHVR to develop this capacity to the necessary level.

14. Any proposals to transfer policy functions from the NTC to the NHVR would need to consider whether governments directly fund that element of the NHVR work program.

Transport and Infrastructure Senior Officials' Committee (TISOC)

15. The NHVR is an independent Regulator and only Ministers have the legislatively limited power of direction over the NHVR.

16. The NHVR considers advice from TISOC but TISOC has no power of direction in respect of the NHVR.

17. The NTC is a full member of TISOC and is privy to discussions surrounding the NHVR in which the NHVR is not involved.

18. The NTC has been valuable in providing the NHVR with feedback from these discussions. However, the NTC should not have to undertake this role.

19. It is vital that the NHVR be directly involved in any discussions at TISOC that concern the operation of the NHVR. This would preferably occur through the formal appointment of a NHVR representative on TISOC as a voting member.

Impacts of Regulatory Change

20. While the NTC is responsible for the development of the HVNL, the NHVR ultimately administers any changes to the HVNL.

21. A key outcome of the last legislative review was for the NTC to be cognisant of implementation issues and resource implications for the NHVR.

22. However the NHVR is an off-budget agency with no capacity to increase its revenue independently of Ministerial decision. Changes to the HVNL impact on the operating budget of the NHVR. Legislative amendments proposed by the NTC should be endorsed by the NHVR and the NTC should be required to provide a full impact of the proposed policy changes on operating budget of the NHVR. This would enable the NHVR to provide advice to Ministers on costs, benefits and timelines for implementing changes to the regulatory framework.

Future NTC Work Program

23. In the event the review considers that the NTC should continue to have a role in relation to regulatory policy concerning the heavy vehicle industry, the NHVR believes that the NTC should continue to concentrate on improving the Heavy Vehicle National Law. The NHVR identified a number of candidate projects for improving the Law, the most significant of which is a thorough red tape review of the legislation.

24. Due to the tight timeframes in which the Heavy Vehicle National Law was developed, it was based on existing model law that had been developed by the NTC over a 20 year period. Changes were only made if demonstrable improvements had been made by the states and territories implementing the model law.

25. In line with the Commonwealth, state and territory governments' red tape reduction program, the opportunity exists to reduce the compliance burden of the regulation through operational policy changes. Providing an added policy lever to the NHVR of directly proposing legislative policy changes to assist in operational improvements is essential for future economic benefits to be recognised by industry. This could be undertaken by direct advice to Ministers by the NHVR.