2 March 2018

National Road Safety Strategy
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RE: Inquiry into the progress under the National Road Safety Strategy 2011-2020

The Australian Logistics Council (**ALC**) is pleased to make a submission to the Inquiry into the progress under the National Road Safety Strategy 2011-2020 (**the Inquiry**).

ALC is the peak national body representing the major and national companies participating in the freight logistics industry, with a focus on national supply chain efficiency and safety.

To that end, our comments to the Inquiry primarily concern heavy vehicle safety and associated regulations including the Heavy Vehicle National Law (**HVNL**).

The National Road Safety Strategy

The National Road Safety Strategy 2011-2020 (**NRSS**) is designed to put in place policies to reduce Australia's annual number of road deaths and serious injuries by at least 30% by 2020.

ALC strongly supports the commitments from the Commonwealth, State, Territory and Local Governments in the NRSS to eliminate road fatalities in Australia.

While the NRSS doesn't specifically examine heavy vehicle crashes, the Bureau of Infrastructure, Transport and Regional Economics (**BITRE**) compiles quarterly statistics on the number of fatalities and fatal crashes involving a heavy vehicle. BITRE defines a 'heavy vehicle' as an articulated truck, a heavy rigid truck, or a bus.

Before discussing this data, it is pertinent to note that 93% of fatal accidents in 2015 involving a heavy vehicle, the heavy vehicle driver was found to not be at fault.[1]

It is also important to note that fatalities from heavy vehicle crashes have, for a long time, been trending down. During the current National Road Safety Strategy, from 2011 to 2020, both fatalities from heavy vehicle crashes, and fatal heavy vehicle crashes, have decreased.

Fatalities from Heavy Vehicle Crashes	2011	**208**	2016	**180**	**-8.65%**
Fatal Heavy Vehicle Crashes	2011	**180**	2016	**169**	**-6.11%**

Table 1 – Fatalities from Heavy Vehicle Crashes and Fatal Heavy Vehicle Crashes in Australia (2011-2016)

[1] NTI, *2017 Major Accident Investigation Report*: 5. See https://www.nti.com.au/files/files/20147_NTARC_Report/B524_NTI_2017_Accident_Investigation_Report_Web.PDF

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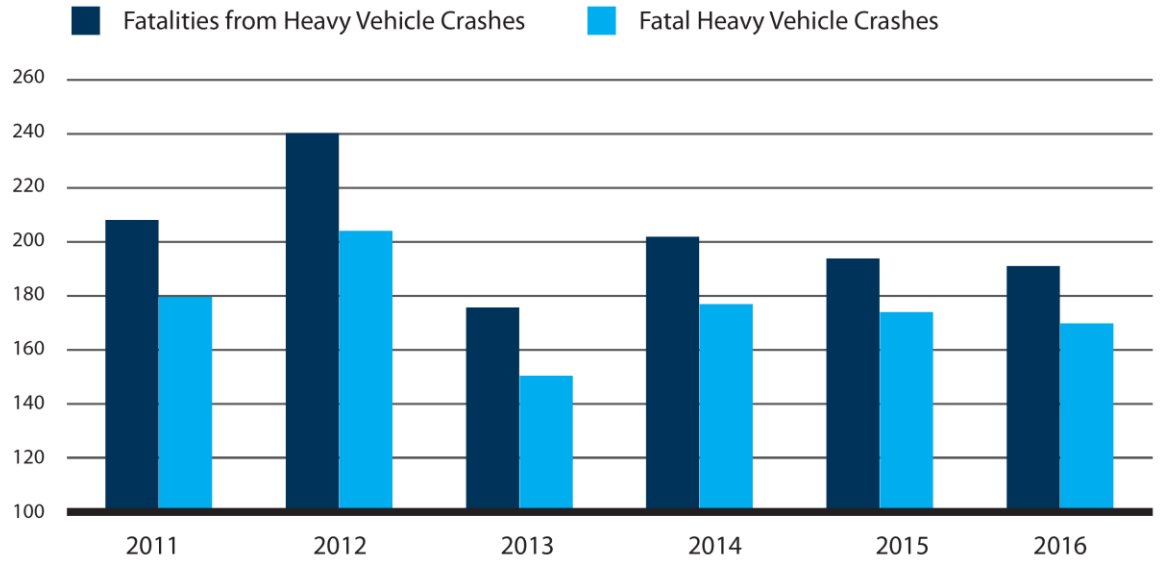
Figure 1 below shows the number of fatalities and fatal crashes involving an articulated truck or heavy rigid truck (defined as a Heavy Vehicle) in Australia from 2011 to 2016.

Figure 1: Fatalities and Fatal Crashes from Heavy Vehicles in Australia (2011 - 2016).



In 2016 there were 190 fatalities from crashes involving heavy vehicles. This compares with an average of 222 fatalities per year over the last three years (2008-2010) of the previous National Road Safety Strategy – a 14.4% decrease.[2]

While this decrease does fall short of the 30% target, it is higher than the 9.1% decrease in the total number of fatalities on Australian roads.

ALC is also keenly aware that, while final statistics are yet to be released, 2017 saw an increase in the number of fatalities and fatal crashes involving trucks in Australia. From September 2016 to September 2017 there was an increase of 4.0% and 6.9% in fatalities and fatal heavy crashes involving trucks respectively, compared to the previous 12 months.

With this in mind, work needs to continue to make the heavy vehicle industry safer for drivers and all road users.

ALC would therefore like to highlight in this submission how we believe governments can work together to achieve this aim.

[2] See Archived Fatal Heavy Vehicle Crashes Australia Quarterly Bulletin https://bitre.gov.au/publications/ongoing/fhvc/index.aspx

Recommendations

1. To improve safety outcomes, the *Heavy Vehicle National Law* should require heavy vehicles to carry telematics equipment.

2. The *Heavy Vehicle National Law* should require heavy vehicle operators to meet a National Operating Standard.

3. Recurrent funding should be available to maintain and update a Registered Industry Code of Practice registered under section 706 of the *Heavy Vehicle National Law*.

4. The National Road Safety Strategy should encourage State and Territory Governments to adopt educational programs designed to educate light vehicle drivers how to safely interact with heavy vehicles.

5. There should be a nationally consistent classification of 'serious injury' with the Bureau of Infrastructure, Transport and Regional Economics publishing the number of serious injuries from heavy vehicle crashes in their quarterly *Fatal Heavy Vehicle Crashes Australia* bulletins.

Mandatory Telematics

ALC has long argued that it should be mandatory for heavy vehicles (as defined by the HVNL) to collect and retain data relating to speed and fatigue offences so it is available for use by businesses and enforcement agencies.

To this end ALC believes that the HVNL should be amended to require heavy vehicle operators to capture and retain data recording:

- the movement of motor vehicles;
- the longitude, latitude, speed, data and time of circumstances of speeding events; and
- engine on/off data.

In May 2017 the International Transport Forum (**ITF**) released a report entitled *Data-led Governance of Road Freight Transport*. The report found that there was 'clear potential for data-driven approaches to regulating and enforcing road freight transport'.[3] Broadly, the report identifies three regulatory areas – road access, driver compliance and vehicle condition – which can be improved by greater use of data.

Further research has indicated that:

- The size of punishment is relatively meaningless to offenders and would-be offenders. What matters is the probability of detection of illegal behaviour. Telematics vastly improve the probability of detecting illegal behaviour.[4]
- A pilot of Electronic Work Diaries (**EWDs**) in NSW in 2010 found that 80% of participating drivers found that a telematics device made it easier for them to comply with fatigue law. In the same study, a company using EWDs had a compliance per shift rate of 99.83% (or a fatigue related breach every 0.17 shifts). A company using Written Work Diaries (**WWDs**) had a compliance per shift rate of 98% (or a fatigue related breach every 2 shifts).[5]
- In *Toll North Pty Limited; Toll Transport Pty Limited v Transport Workers' Union of Australia* Commissioner Gregory was satisfied that inward facing cameras (known as Drive Cam) can contribute to better safety outcomes in the road transport industry. [6]

A copy of ALC's current policy on mandatory telematics can be found at **Attachment A**.

[3] International Transport Forum, *Data led Governance of Road Freight Transport* (2017): 6. https://www.itf-oecd.org/sites/default/files/docs/data-led-governance-road-freight-transport.pdf
[4] National Transport Commission *Heavy Vehicle Compliance Review Consultation Draft(* 2013): 6 and 26. The comment on page 38, which reads 'As noted earlier, probability of detection is a key factor in securing compliance' should also be noted.
[5] Transport Certification Australia Limited *Operational Pilot of Electronic Work Diaries and Speed Monitoring Systems* (2013): 44.
[6] [2014] FWC 2945 at 85.

National Operating Standard

The ALC 2016 Election Priorities Document, *Getting the Supply Chain Right,* called for the introduction of requirements for heavy vehicle operators to meet a national operating standard.

ALC said:

> *Discussions with regulators have made it clear there are concerns about the capacity of some road operators to operate a business in a business-like manner and, more particularly, that some operators do not maintain sufficient capital to maintain vehicles in a roadworthy state, thus posing dangers to all road users.*
>
> *An incoming government should therefore display national leadership and ensure that road operators meet a national operating standard that requires an operator of a heavy vehicle to have in place both the financial capacity to operate a business and a uniform safety management system to ensure that Australia's roads remain safe.*[7]

With recommendation 21 of the document being:

> *Road operators should meet a national operating standard requiring an operator of a heavy vehicle to have in place both the financial capacity to operate a business and a uniform safety management system to ensure that Australia's roads remain safe.*'[8]

To augment the operation of the Chain of Responsibility provisions contained in the HVNL, ALC believes there is a case for an operator of a heavy vehicle to:

1. maintain a safety management system certified by an accredited auditor as being compliant with operating standards specified in an instrument made under the HVNL;

2. demonstrate the financial capacity to provide a carriage service through satisfaction of requirements along the lines of section 10 of the *Passenger Transport (General) Regulation 2017* (NSW); and

3. carry in heavy vehicles equipment meeting necessary technical standards capable of recording safety and other data as required by law (see above).

This is because the structure of the Australian heavy vehicle industry must be recognised. Many operators are small businesses and not employees. It follows that if safety is to be improved, then improvements must be made to operator management systems.

In that case, any amendments that are necessary should be made through the national law dealing with safety – the HVNL – that uses the 'applied legislation model' in which one jurisdiction makes the law,[9] with the other jurisdictions then subsequently 'applying' (picking up) the first jurisdiction's legislation, thus removing any constitutional barriers that could be breached if the proposal was enacted under a Commonwealth law.

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[7] Australian Logistics Council *Getting the Supply Chain Right: Building the Economy Through Efficient and Safe Supply Chains* (2016): 24 http://www.austlogistics.com.au/wp-content/uploads/2016/05/Getting-the-Supply-Chain-Right.pdf

[8] *Getting the Supply Chain Right:* 7.

[9] Currently Queensland.

Registered Industry Code of Practice

ALC and the Australian Trucking Association (**ATA**) are currently developing a Registered Industry Code of Practice (**Master Code**) through Safe Trucking & Supply Chains Ltd (**STSC**), a joint company formed by ALC and ATA. The Master Code will be registered under s 706 of the HVNL.

The Master Code will cover most, if not all, of the common risks associated with operating a heavy vehicle (as defined by the HVNL). This includes speed, fatigue, vehicle standards and mass, dimension and loading.

The Master Code has been written to ensure heavy vehicle operators and drivers, as well as Executive Officers, understand their legal responsibilities under the HVNL. In effect, the Master Code translates the requirements of the HVNL into a practical methodology incorporating best practice for the heavy vehicle industry.

Recent changes made to the HVNL by the *Heavy Vehicle National Law and Other Amendments Bill 2016* (Qld) have been incorporated into the Master Code.

ALC is hopeful that this Master Code will help heavy vehicle operators more readily comply with the HVNL and subsequently improve heavy vehicle safety.

To develop this Master Code, STSC received $473,000 in Commonwealth Government assistance.

This money compromised tranche 1 funding of $200,000 provided by the National Heavy Vehicle Regulator (**NHVR**) from funds repurposed from the now abolished Road Safety Remuneration Tribunal (**RSRT**). Tranche 2 funding comprised a $273,000 grant from the (then) Commonwealth Department of Infrastructure and Regional Development.

However ALC is concerned that funding will not be provided by government to keep the Master Code updated as the HVNL, and associated regulations, are changed from time to time.

In our *2018/19 Commonwealth Budget Submission*, ALC advocated that recurrent funding should be available to maintain and update a Registered Industry Code of Practice registered under section 706 of the HVNL.

In this submission, ALC again urges the Commonwealth Government to provide funding, when required, to keep the Master Code updated as the HVNL, and associated regulations, are changed from time to time.

State Based Road Safety Strategies

In 2015 it was estimated that in 93% of heavy vehicle accidents that result in a fatality, the heavy vehicle driver is not at fault.[10]

Further research also indicates that in more than 80% of heavy vehicle accidents fault is not attributed to the heavy vehicle driver.[11]

These findings suggest an issue with other road users, such as light vehicle drivers, not appreciating the mechanical differences between a heavy vehicle and a light vehicle, leading them to drive inappropriately around heavy vehicles.

For example, heavy vehicles have larger blind spots and different braking distances compared to those of light vehicles.

ALC believes that road safety strategies should address the need for educating light vehicle drivers (and cyclists, pedestrians and other road users) on how to engage with heavy vehicles safely on the road.

For example, the *NSW Road Safety Plan 2021* indicates that the NSW Government will:

> *'Develop new platforms and enhanced road safety content in driver testing, including safe interaction with heavy vehicles … and support with new digital education for young drivers and their parents/carers.'*[12]

The statistics powerfully demonstrate a need for this type of education.

ALC looks forward to the NSW Government developing these driver education tools, and calls on the National Road Safety Strategy to encourage other jurisdictions to adopt educational programs designed to teach light vehicle drivers how to safely interact with heavy vehicles.

[10] NTI, *2017 Major Accident Investigation Report*: 5. See https://www.nti.com.au/files/files/20147_NTARC_Report/B524_NTI_2017_Accident_Investigation_Report_Web.PDF

[11] In 2011 National Transport Insurance (**NTI**) found that cars were at fault in 82 per cent of fatal accident involving a truck. See https://www.nti.com.au/media/news-article/cars-at-fault-in-82-of-fatal-crashes-with-trucks-report.php.

[12] NSW Government, *NSW Road Safety Plan 2021* [19].

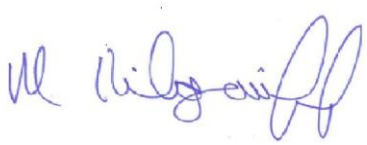
Serious Injury Classification

ALC supports the ongoing work of the Transport and Infrastructure Council to work towards a nationally consistent definition of serious injury.

Once this definition is settled ALC supports BITRE, through their quarterly *Fatal Heavy Vehicle Crashes Australia* bulletins, publishing the number of serious injuries from crashes involving heavy vehicles.

Please contact me on 0418 627 995 or at michael.kilgariff@austlogistics.com.au should you wish to discuss this submission.

Yours sincerely



MICHAEL KILGARIFF
Managing Director

Attachment A

ALC Policy Position on Mandatory Telematics

1. To improve safety outcomes, the *Heavy Vehicle National Law* (**HVNL**) should require heavy vehicles to carry telematics equipment.

2. Relevant legislation (including the HVNL) should set out:

   (a) what information should be recorded; and

   (b) the circumstances where enforcement and other officers can access information; and

3. The HVNL be identified as the law regulating telematics in heavy vehicles.

4. The HVNL be accordingly amended to:

   (a) allow the making of some form of legislative instrument that contains:

      (i) something like the Data Dictionary currently maintained by Transport Certification Australia (**TCA**), that can be amended from time to time as recording requirements for either safety or other purposes are subsequently added by other Australian laws so there is a common set of data definitions to facilitate the collection, exchange and use of data and information; and

      (ii) privacy standards that must be met by those eligible to access the personal and business information of a transport operator;

   (b) allow amendments to primary legislation so that:

      (i) road transport operators are required to use software or hardware applications certified by the vendor as satisfying data dictionary standards and to maintain data as required by an Australian law;

      (ii) an offence of falsely representing that a software or hardware application satisfies a particular statutory requirement could also be created against a vendor if trade practice laws relating to the making of false and misleading claims are considered insufficient;

      (iii) if considered necessary, a capacity to prescribe an industry standard that must be met to maintain recorded data; and

      (iv) offences are created to penalise activities such as tampering with either hardware or data.

ALC BLUEPRINT FOR THE INTRODUCTION OF MANDATORY TELEMATICS

1

The *Heavy Vehicle National Law* is amended to require heavy vehicles to carry telematics equipment.

2

Legislation (including the HVNL) sets out:

1. What information should be recorded; and
2. The circumstances where enforcement officers and other officers can access the information.

3

The HVNL be identified as the law regulating telematics in heavy vehicles.

4

The HVNL be accordingly amended to:

a. allow the making of a legislative instrument that contains a:
   i. data dictionary; and
   ii. privacy standards.

b. Allow amendments to primary legislation so that:
   i. road transport operators are required to use a software or hardware application certified by a vendor that satisfy data dictionary standards.
   ii. an offence is created for falsely representing that a software or hardware application satisfies a particular standard.
   iii. if considered necessary, a capacity to prescribe an industry standard that must be met to maintain recorded data; and
   iv. offences are created to penalise activities such as tampering with hardware or data.