Response to the Productivity Commission Draft Report on National Transport Regulatory Reform

January 2020

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Summary of Recommendations

Recommendation 1 : The Commission should look to modify its draft finding 6.8 by removing references to RISSB and instead note:

1. the co-regulatory method to develop codes of practice for the HVNL is the industry code of practice mechanism established by Part 13.2 of the HVNL;
2. the Master Code developed by ALC and the ATA is an example of such a Code;
3. An issue has arisen in which a proliferation of auditing schemes that assert to assess compliance with the safety duties imposed on parties to the chain of responsibility by Chapter 1A of the HVNL has imposed compliance costs on particularly vehicle operators;
4. Industry and the NHVR are working to develop common auditing standards to assess the business systems of parties to the chain of responsibility; and
5. that industry and the NHVR may choose to work in a more coordinated manner to assist the Regulator in its statutory duty to identify and promote best practice methods for complying with the HNVL, managing risks to public safety and encouraging safe and productive business practices.[1]

Recommendation 2 - ALC believes that the recommendations of the Commission should be taken into consideration during the development of a revised HVNL during 2020 so that the productivity of the freight sector can be enhanced and safety performance improved.

Recommendation 3 - The Commission should recommend identification of the data sets industry is prepared to freely share as a priority for the Freight Data Hub project during 2020.

Recommendation 4 - The Commission should recommend that the Freight Data Hub project may wish to make a priority the standards to be adopted for the purposes of developing a freight data hub.

Recommendation 5 – The Commission should recommend that a publicly available MOU between the NHVR and workplace safety regulators be established.

Recommendation 6 - ALC recommends the Commission conclude that a review along the lines of that proposed by Ernst and Young could form the next phase of the Action Plan.

Recommendation 7 - The Commission may wish to recommend that Inland Rail be used as a test bed for the development of standardised WHS regulations and operational procedures (during the construction phase and consistent fatigue management requirements[2] (in the operational stage) with a view of encouraging national harmonisation.

[1] See paragraphs 659(2)(j) and (k) of the HVNL

[2] An issue discussed on page 163 of the Discussion paper.

Introduction

The Australian Logistics Council (**ALC**) welcomes the opportunity to respond to the Productivity Commission's Draft Report on National Transport Regulatory Reform (**the Draft Report**).

ALC is the peak national body representing major companies participating in the freight and logistics industry. ALC's policy focus is on delivering enhanced supply chain efficiency and safety.

The fact that the freight and logistics industry is adopting an increasingly intermodal nature by which freight moves from generation point to destination means there should ideally be a single national set of laws should govern the movement of freight, reducing compliance costs involved in the movement of goods.

ALC therefore generally endorses the recommendations contained in the draft report as they mirror many of the recommendations ALC has been making in a number of different forums over the last decade, particularly regarding potential changes to the Heavy Vehicle National Law (**HVNL**).

Correction of Error

TruckSafe and AMCAS

Page 20 of the Draft Report said:

> *TruckSafe is an initiative by the Australian Trucking Association and the Australian Logistics Council to raise professional and safety standards. The scheme requires operators to meet a set of minimum standards across key areas such as fatigue management. Membership of the scheme may assist an operator to satisfy obligations under Chain of Responsibility legislation.*

Unfortunately, this is incorrect.

TruckSafe is a proprietary product of the Australian Trucking Association (**ATA**).

ALC and the ATA own a company called Safe Trucking and Supply Chain Limited that holds the intellectual property for what is called the Master Code[3] which is a registered industry code of practice under section 706 of the HVNL. It is designed to assist freight supply chain participants falling within the definition of 'a party in the chain of responsibility' (everyone from consignors and consignees to heavy vehicle operators) contained in section 5 of the HVNL.

The intention of the Master Code is to provide guidance for those who have duties under the HVNL (particularly the primary duty contained in section 26C of the Law) to ensure, so far as is reasonably practicable, the safety of a party's transport activities[4] relating to a vehicle and so improve safety outcomes.

[3] https://www.nhvr.gov.au/files/ricp-master-code.pdf

[4] 'Transport activities' is a defined term: see section 5 of the HVNL

Following the development of the Master Code, ALC has developed a product called the ALC Master Code Auditing Service (**AMCAS**). This is an auditing system developed by ALC to capture transport related risks within an organisation's broader safety management system that is closely related to the Master Code and is again a product designed to improve sectoral safety outcomes.

Industry Standards

Page 219 of the Draft Report said:

There may be scope for greater engagement with transport operators to set industry standards. In the rail industry, the Rail Industry Safety and Standards Board operates as a co-regulatory group to coordinate the development of standards, codes of practice, guidelines and rules. These documents do not have legal effect and do not bind the regulator. However, they can help set common industry practice. This model may be useful for the NHVR and the industry to consider.

DRAFT FINDING 6.8

The Chain of Responsibility reforms appear to be resulting in greater focus at all parts of the supply chain on compliance systems. However, the proliferation of in-house systems may raise the compliance burden for transport contractors. Industry could play a stronger role in determining common standards for the heavy vehicle industry. In the rail industry this role is undertaken by the Rail Industry Safety and Standards Board.

One of the features of the current HVNL is that the National Heavy Vehicle Regulator (**NHVR**) itself cannot make a registered industry code – the Law leaves it to others, typically industry associations.

Given the relatively narrow remit of the National Heavy Vehicle Regulator (the **NHVR**) to manage industry codes, and the structure of the current law[5], the registered industry code can process the relevant 'co-regulatory' way in which industry and the NHVR[6] can encourage the improvement of standards.

The proliferation of in-house systems referred to in draft finding 6.8 is an issue that impacts on efficiency and productivity.

The issue most raised by industry participants with ALC (most recently at the ALC/ATA Safety Summit held in Sydney on September 2019) was that operators had to have:

- an audit of their business procedures performed if they wished to be a member of TruckSafe;
- further audits performed should a company use AMCAS to assess the business processes of an operator;

[5] Currently under review at the request of the COAG Transport and Infrastructure Council through the National Transport Commission

[6] In the case of the Regulator, through the registration process – see generally Part 13.2 of the HVNL

- another audit again if they wish to work as a subcontractor for a large prime contractor[7] who have their own standards that subcontractors must meet; and
- a final set of audits if they wished to be accredited under modules[8] created under the National Heavy Vehicle Accreditation Scheme, a statutory scheme created under Chapter 8 of the HVNL, in which accreditation permits operators access to what are colloquially described as 'statutory benefits' to gain access, for example, to higher mass limits or access to certain roads or locations.

There are two reasons for the multiplicity of audit requirements.

The first is that jurisdictions have insufficient confidence in the quality of audits accredited by non-government accrediting bodies to allow access to 'statutory benefits.

The second is that the structure of the safety duties contained by Chapter 1A of the HVNL means that the question as to whether a chain of responsibility party took all reasonably practicable steps to ensure the safety of its transport activity can turn on whether the party exercised its capacity to control a particular risk.[9]

Some large corporations have taken the view that to discharge their HVNL safety duties it is prudent to conduct their own audit of the business operations of subcontractors and prospective subcontractors.

NHVR is also working with industry groups in an endeavour to develop common auditing standards, with a set of workshops scheduled for 2020 to advance the issue.

Finally, the Rail Industry Safety and Standards Board (**RISSB**) develop standards on issues that are somewhat complex, such as (for example) a guideline on management of rail traffic with unreliable track circuits.[10]

Issues relating to the operation of a heavy vehicle are relatively less complex.

It is also noted RISSB is a relatively sophisticated body funded by governments and very large corporations.[11]

The heavy vehicle sector is a highly atomised sector, with thousands of participants and relatively few large corporations. It is highly unlikely that a funding model to support something like RISSB will emanate from the heavy vehicle sector.

Recommendation 1 : The Commission should look to modify its draft finding 6.8 by removing references to RISSB and instead note:

- **The co-regulatory method to develop codes of practice for the HVNL is the industry code of practice mechanism established by Part 13.2 of the HVNL;**
- **The Master Code developed by ALC and the ATA is an example of such a Code;**

[7] A 'prime contractor' is defined by section 5 of the HVNL as being a person who engages a driver to drive a vehicle under a contract for services.

[8] https://www.nhvr.gov.au/safety-accreditation-compliance/national-heavy-vehicle-accreditation-scheme/accreditation-modules

[9] See paragraph 26A(2)(c) and subparagraph 26B(3)(b)(i) of the HVNL

[10] See the RISSB suite of 'products' set out here: https://www.rissb.com.au/products/

[11] https://www.rissb.com.au/membership/current-funding-members/

- **An issue has arisen in which a proliferation of auditing schemes that assert to assess compliance with the safety duties imposed on parties to the chain of responsibility by Chapter 1A of the HVNL has imposed compliance costs on particularly vehicle operators;**
- **Industry and the NHVR are working to develop common auditing standards to assess the business systems of parties to the chain of responsibility; and**
- **That industry and the NHVR may choose to work in a more coordinated manner to assist the Regulator in its statutory duty to identify and promote best practice methods for complying with the HNVL, managing risks to public safety and encouraging safe and productive business practices.**[12]

Commission Recommendations relating to the Heavy Vehicle National Law (HVNL)

ALC's long-held position regarding the HVNL is that there should be a single law administered by a single regulator for one national economy.

There has been some significant progress toward this outcome. The Regulator has generally operated satisfactorily and there are no calls for the return of jurisdictionally based regulation or legislation.

Nevertheless, there are some areas that still require attention.

They include:

- the continuation of jurisdictional derogations from the Law;
- the continued provision of enforcement services to the Regulator by jurisdictions;
- limited capture and use of data;
- route access;
- a need to improve operator standards; and
- A review of the more technical provisions of the Law, which do not provide either safety or productivity outcomes.
- Truck engine emission standards and the need to improve engine exhaust emissions across the national truck fleet.

The Commission is aware the National Transport Commission is conducting a review of the HVNL at the request of the COAG Transport and Infrastructure Council (**TIC**).

Many of the Commission's recommendations in the draft report mirror those made by ALC on many occasions over the previous decade, most recently in a submission made to the TIC Transport and Infrastructure Senior Official's Committee on 14 October 2019[13], which

[12] See paragraphs 659(2)(j) and (k) of the HVNL

[13] http://www.austlogistics.com.au/wp-content/uploads/2019/10/TISOC-Submission-Making-a-Modern-Heavy-Vehicle-National-Law.pdf

constitutes a precis of two more substantive submissions made by ALC over the course of the review[14]. These similarities are set out in the table contained in the **Attachment**.

Recommendation 2 - The recommendations of the Commission should be taken into consideration during the development of a revised HVNL by the National Transport Commission during 2020 so that the productivity of the freight sector can be enhanced and safety performance improved.

Use of Data

A common concern expressed by many freight logistics industry leaders is the lack of meaningful data about the performance of Australia's supply chains. This concern was echoed by the *Inquiry Into National Freight and Supply Chain Priorities*[15], which found there was limited national data to measure and benchmark performance.

The lack of data is concerning, as it makes it difficult for governments to prioritise investments and accurately measure the impact of new policies or infrastructure investments. This is something the Commission itself noted when preparing the appendix to its Draft Report on the analysis of transport safety outcomes and heavy vehicle productivity:

Although data limitations are a key constraint in productivity analysis, the Commission's reform agenda and the Australian Government's development of the National Freight Data Hub should help to improve this in the future (chapters 8 and 10). More accessible data on the number and sizes of heavy vehicles operating, as well as the routes they take, would enable more informed productivity analysis and decision making.[16]

A Freight Data Hub should be able to be used to improve investment decisions made by governments at both a Commonwealth and state level. Improvements in this area would benefit industry by initiating productivity improvements associated with better infrastructure planning.

The use of data obtained via such a Hub would also provide benefit to government policy at a planning level, allowing for freight network optimisation activities to be undertaken with greater efficiency.

In turn, permitting access to data by industry participants would assist in the selection of more efficient transport routes (across all modalities) and in the making of capital investment decisions in relation to the size and nature of vehicle to be used in the transport of freight.

This means ALC completely endorses the discussion contained on pages 359-60 of the Draft Report relating to data as a key enabler of policy reform and improved productivity.

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[14] See http://www.austlogistics.com.au/wp-content/uploads/2019/06/ALC-Submission-NTC-Review-into-the-HVNL.pdf and http://www.austlogistics.com.au/wp-content/uploads/2019/09/ALC-Submission-NTC-HVNL-Review-Tranche-2.pdf

[15] https://www.infrastructure.gov.au/transport/freight/freight-supply-chain-priorities/index.aspx

[16] https://www.pc.gov.au/inquiries/current/transport/draft/transport-draft-appendixb.pdf : 18

Concerns about data use and its value proposition

The willingness of businesses to invest in generating and sharing their data will depend on how the data might be used. As the Commission has previously noted:

People and organisations are more willing to share information when they trust how it is being used and can see personal benefits stemming from access to their data that go beyond the immediate service they access … (PC 2017a, p. 373)

The Commission has heard relatively consistent anecdotal evidence of recent experiences with data systems, showing that industry may have concerns that:

- generating and sharing data would require imposition of further compliance costs for businesses;
- the use of data in safety regulation could lead to heavier-handed, more interventionist enforcement;
- sharing sensitive data may benefit competing firms or may have other commercial implications, such as benefiting competing firms; and
- the costs of contributing data may be shared more equally than the benefits of the system.

It became clear at the ALC Supply Chain Technology & Data Summit held in October 2019 that industry is not prepared to provide data perceived to be 'commercial in confidence'. The Freight Data Hub concept is being developed by the Department currently known as the Department of Infrastructure, Transport, Cities and Regional Development.[17]

Over the next two years, the Department proposes working closely with industry, governments and other stakeholders on the Freight Data Hub design.

Subject to its comments regarding concerns about data use, ALC agrees with Draft Recommendation 8.2, in which it suggests:

> *The Australian Government should co-operate with stakeholders including Transport Certification Australia when developing the National Freight Data Hub. The Hub should include a regulatory framework for the collection, storage, analysis and access of transport data, including telematics data. This framework should specify the data access powers of regulators, enforcement agencies and accident investigation bodies, and should enable these bodies sufficient access to undertake their respective tasks, while protecting privacy and confidentiality.*

Recommendation 3 - The Commission should recommend identification of the data sets industry is prepared to freely share as a priority for the Freight Data Hub project during 2020.

[17] https://www.infrastructure.gov.au/transport/freight/national-freight-data-hub/index.aspx

Standards

As the Commission observed on page 265 of the discussion paper, given that Australia is a relatively small market, the Australian Government should aim for national and international consistency of laws and standards where practicable.

In the 2018 paper *A Common Data Set for Our Supply Chain*.[18] ALC said international alignment of data standards is important given the international nature of trade.[19]

The most common standard used to track the movement of goods is ISO 19988[20] whilst ISO 15638 is the standard establishing the framework for collaborative telematics applications for regulated commercial freight vehicles and is used in Australia for the purposes of the National Telematics Framework.[21]

Recommendation 4 - The Commission should recommend that the Freight Data Hub project may wish to make a priority the standards to be adopted for the purposes of developing a freight data hub.

WHS and National Transport Regulators

In relation to Information Request 5.3, ALC advises that at the September 2019 ALC & ATA Supply Chain Safety Summit some confusion was expressed by industry participants regarding circumstances where WorkSafe authorities have jurisdiction, (with WHS law being the law enforced) and circumstances where the HVNL applied.

The practical rule of thumb suggested was that 'if the wheels were spinning', the HVNL was relevant; otherwise it was standard WHS legislation.

Participants expressed a view that it would be appropriate for a publicly available MOU between the NHVR and workplace safety regulators setting out the general areas over which the respective agencies will be responsible for enforcement.[22]

Recommendation 5 – The Commission should recommend that a publicly available MOU between the NHVR and workplace safety regulators be established.

[18] http://www.austlogistics.com.au/wp-content/uploads/2018/10/A-Common-Data-Set-for-our-Supply-Chain.pdf
[19] Page 12
[20] Information Technology – GSI Core Business Vocabulary, which operates in conjunction with ISO19987 Information Technology – EPC Information Services (EPCIS) Standard)
[21] https://tca.gov.au/documents/NTF.pdf
[22] Which is the case in the commercial marine environment: see page 252 of the Draft Report.

Freight Rail

As ALC indicated in its initial submission to the Commission:

- a report prepared by Ernst and Young and discussed in The 2015 Draft Freight Rail Policy Objectives Discussion Paper published by the Federal Infrastructure Department (as then constituted) recommended that where economic benefits exist there should be a move towards a single set of laws across jurisdictions governing environmental regulation, workplace health and safety, workers' compensation, and drug and alcohol testing;[23]whilst

- the 2018 *Review of Rail Access Regimes,* recently published by the Department found that there that there are roughly 150 different environmental regulations that operators must comply with when operating rolling-stock between Perth and Brisbane. Each rail operator is required to comply with Environmental Management Plans (EMPs) and environmental licencing at a state level and each state has its own regulatory body that ensures compliance with these plans. [24]

A National Rail Action Plan forms part of the National Freight and Supply Chain Strategy. The Action Plan is currently focussing on both interoperability standards harmonisation, and skills development.

However, to maximise productivity and efficiency outcomes a single national suite of legislation should govern the movement of freight on rail in a country that effectively operates as a single market.

Recommendation 6 - ALC recommends the Commission conclude that a review along the lines of that proposed by EY could form the next phase of the Action Plan.

This review could be the opportunity to explore whether the Office of the National Rail Safety Regulator could have its remit lifted to beyond safety and become a general regulator.

Should that occur, it would remove any doubt as to whether the Office should have a productivity objective.[25]

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[23] Extract contained in the ALC submission *Draft Discussion Paper – Australian Government's Freight Rail Policy Objectives:* http://www.austlogistics.com.au/wp-content/uploads/2015/12/ALC-Submission-Draft-Discussion-Paper-onAustralian-Government-Rail-Policy-Objectives-December-2015.pdf :13

[24] https://infrastructure.gov.au/rail/publications/files/Review-of-Rail-Access-Regimes.pdf :22

[25] Unlike the NHVR, which has responsibilities relating to access to routes and the approval of performance based vehicles, the Office has an extremely narrow safety remit. On one analysis, unless

In the meantime, the inland rail project is commencing the construction stage. Track is currently being laid in NSW. There will be subsequent roll outs in Queensland and Victoria.

Recommendation 7 - The Commission may wish to recommend that Inland Rail be used as a test bed for the development of standardised WHS regulations and operational procedures (during the construction phase and consistent fatigue management requirements[26] (in the operational stage) with a view of encouraging national harmonisation.

These were suggestions originally made at the ALC/Australasian Railways Association Inland Rail Conference held in Parkes in 2018.

Road Pricing

ALC finally notes the discussion on the heavy vehicle road reform project on pages 346-348 of the Draft Report.

ALC considers that some form of pricing reform (starting with the 'road fund' approach, as recommended by the Commission in its 2014 report on Public Infrastructure) should be rolled out as soon as practicable to replace the current PAYGO method of developing the cost base for heavy vehicle usage on public roads.

In the context of the last election, ALC recommended the Commonwealth Government should adequately resource the Heavy Vehicle Road Reform to ensure that implementation begins before the next term of Government (ie. during the life of the current Parliament). The Commission should recommend likewise.

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the Office is conferred with greater responsibilities it is difficult to see how productivity *per se* is a relevant objective for the organisation.

[26] An issue discussed on page 163 of the Discussion paper.

ALC SUBMISSION TO TISOC	PRODUCTIVITY COMMISSION FINDINGS AND RECOMMENDATIONS
Freight does not stop at state borders, which means that ALC's members bring a national perspective to the review and design of legislation and regulation. In many respects, the current HVNL reflects the compromises that were considered necessary to convince most (but not all) jurisdictions to sign up to the 2011 Intergovernmental Agreement on Heavy Vehicle Regulatory Reform. However, the law clearly needs reform to be fit for purpose for the 2020's and beyond. (Under the heading One Country, One Rule Book Uniformly Enforced) ALC's long-standing position has been that there should be a single Heavy Vehicle National Law (HVNL) administered by a single national regulator.	**DRAFT RECOMMENDATION 4.1** The Transport Infrastructure Council should request that the National Transport Commission undertake a review of significant derogations from the Heavy Vehicle National Law and the Rail Safety National Law, with the aim of reducing regulatory inconsistency. The Council of Australian Governments should commit to altering or removing derogations, or altering the national laws, to achieve best practice regulation. **DRAFT RECOMMENDATION 7.1** The Transport and Infrastructure Council should agree to have all regulatory functions still held by participating jurisdictions transferred to the National Heavy Vehicle Regulator no later than 1 January 2022. **DRAFT RECOMMENDATION 4.2** The national regulators should phase-out Service Level Agreements (SLAs) with State and Territory agencies by absorbing these functions at the earliest opportunity. Where there is a business case to use SLAs with third parties, those parties should act under the direction of the national regulators to ensure consistent decisions across jurisdictions.
ALC recommends that the Western Australian model of managing fatigue be adopted, prepared on the basis of the principles set out (in Western Australian Occupational on page 44 of the fatigue management discussion paper. If diaries must be used as the manner to control hours, electronic work diaries that are compliant with the Telematics Data Dictionary made for	**DRAFT RECOMMENDATION 5.2** The Council of Australian Governments should amend the Heavy Vehicle National Law to give the National Heavy Vehicle Regulator (NHVR) greater scope to provide concessions from prescribed aspects of fatigue management regulation, where the NHVR is satisfied that more effective systems of fatigue management are in place, such as technology-enabled management systems, and/or accredited management systems.

the purposes of the National Telematics Framework should be adopted. There should be a National Operating Standard established, which requires heavy vehicle operators to: (a) identify the name of the entity operating a heavy vehicle (or vehicles) and the place(s) heavy vehicle are garaged; (b) prove to the satisfaction of the NHVR that a nominated amount of capital is available to the business so as to ensure it has sufficient capital to undertake appropriate and regular vehicle maintenance; (c) maintain an audited safety management system meeting specified standards; and (d) collect data, through the use of equipment compatible with standards made under the National Telematics Framework. The use of data for statutory purposes may only be used in circumstances set out in the law. The operator will retain the ownership and control of any data, with use also subject to the operation of Australian Privacy Principles.	Driver fatigue laws should continue to set outer limits on driving hours. **DRAFT FINDING 5.3** The lack of effective mutual recognition of heavy vehicle accreditation between Western Australia and the jurisdictions that have adopted the Heavy Vehicle National Law is counter to the objectives of the harmonisation agenda and does not promote safety. Operators bear the costs of meeting the requirements of different jurisdictions.
There are 537 local governments in Australia that own and manage	**DRAFT FINDING 6.1**

approximately 80 per cent of Australia's road network in length. The HVNL vests in the managers of these roads responsibility for access decisions, while the NHVR has a coordinating role. It is well known some managers try to protect the road infrastructure by denying access. This is because road surface degradation is affected by the number of vehicles travelling on a road, and the mass of those vehicles. Concerns have been expressed over the years as to whether local government (in particular) has the resources, access to data and expertise needed to process access applications efficiently. Road managers often struggle to assess heavy vehicle access requests that are technically complex, including conducting bridge assessments. This results in decisions based on risk appetite rather than measurable criteria. ALC accordingly supports proposals of the NHVR that involve: a) A risk-based framework for heavy vehicle access which compares vehicle performance and the transport task with the road infrastructure characteristics. b) Dynamic national networks maps that understand the suitability of heavy vehicle travel on the most suitable route enabled through up-to-date asset data. c) Shared movement data exchanged by industry for increased network access availability, made available	Constraints around local government investment capacity and engineering expertise are limiting the effectiveness of the heavy vehicle reforms by preventing adequate assessment and upgrading of bridge and road infrastructure. **DRAFT RECOMMENDATION 6.1** Local governments should share engineering expertise and agree to consistent access arrangements for shared roads. The Australian Government should work with States and Territories to encourage this collaboration. States and Territories should report to the Council of Australian Governments in early 2020 on the status of this work. **DRAFT FINDING 6.2** The complexity of the vehicle classifications has limited the progress of faster access approvals, through permits, pre-approvals and notices. **DRAFT RECOMMENDATION 6.2** The Australian Government should seek simpler heavy vehicle classifications through the National Transport Commission's review of the Heavy Vehicle National Law for the purposes of access decisions. Additionally, the National Heavy Vehicle Regulator should provide more detailed and effective guidelines to road managers.

through an appropriate assurance framework. d) Targeted infrastructure funding based on a strong understanding of the use and increasing demand for networks which informs maintenance and upgrade programs.	
The current work of the NHVR in attempting to develop a common auditing standard to assess operator safety systems should be brought in-house and expedited.	**DRAFT FINDING 6.8** The Chain of Responsibility reforms appear to be resulting in greater focus at all parts of the supply chain on compliance systems. However, the proliferation of in-house systems may raise the compliance burden for transport contractors. Industry could play a stronger role in determining common standards for the heavy vehicle industry. In the rail industry this role is undertaken by the Rail Industry Safety and Standards Board.
One of the chief purposes of the review of the current law is an intention to create a more performance based HVNL. As a general proposition, ALC supports this proposal, as it will allow ALC members to design and implement systems that ensure safety obligations are satisfied whilst maintaining productivity. However, noting the atomised nature of the industry, a dual regulatory approach similar to the National Construction Code (which creates 'deemed to comply' provisions to facilitate compliance by smaller operators) would seem to be desirable.	**DRAFT RECOMMENDATION 7.2** The Australian Government should lead efforts through the Transport and Infrastructure Council to reform the Heavy Vehicle National Law. It should encourage State and Territory governments to remove prescriptive material from the legislation and to include an explicit mandate for the National Heavy Vehicle Regulator to take a risk-based approach to its functions.