# **ACCREDITATION POLICY REVIEW**



**National Transport Commission** 

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Accreditation Policy Review

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# **REPORT OUTLINE**

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Abstract:	This report reviews the alternative compliance policy introduced in 1997. It recommends that work be undertaken to update and improve the policy to increase the integrity and usefulness of the policy.	
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# FOREWORD

The National Transport Commission (NTC) is an independent body established under Commonwealth legislation and an Inter-Governmental Agreement and is funded jointly by the Commonwealth, states and territories. The NTC has an on-going responsibility to develop, monitor, maintain and review uniform or nationally consistent regulatory and operational reforms relating to road, rail and intermodal transport.

The alternative compliance policy, now more commonly known as the National Heavy Vehicle Accreditation Scheme, was one of the first attempts in Australia to create flexible national regulation for road transport. The policy was introduced in 1997, so it is timely that it be reviewed.

It is clear from this review that the policy has proven to be a flexible mechanism that can match compliance assurance outcomes with greater industry flexibility. It is also clear from this review that the policy has now matured into what can best be described as a national permitting system.

This review concludes by recommending that the policy be updated and improved. The changes suggested are needed so that the policy can continue to deliver beneficial compliance and productivity outcomes in the future. Australia's regulatory framework for heavy vehicles provides greater opportunities for innovation and flexibility compared to regulatory frameworks in other countries. The suggested changes are intended to ensure that these opportunities will continue.

I would like to thank business and government stakeholders for their contributions to this review. I acknowledge the work of Neil Wong and Tim Eaton in conducting this review.

herantur

Greg Martin Chairman

# SUMMARY

This report reviews the alternative compliance policy approved by the Australian Transport Council in 1997. Most people now know this policy as the National Heavy Vehicle Accreditation Scheme ('the Scheme'). The main aims of this policy were to improve road safety and transport efficiency by improving compliance with road transport law. The operators who joined the Scheme would meet higher standards than the standands required under road transport laws. As such, the vehicles of these operators would be subject to less roadside compliance than the vehicles of operators who were not in the Scheme. Less roadside enforcement would provide efficiency for industry as these vehicles would not be held up at roadside inspections, while enforcement agencies could redeploy their resources to concentrate on operators who were less likely to be complying with the law.

This report first examines the implementation of the policy. It finds that it is now clear that the policy has evolved. Over time, other incentives to join the Scheme have come to the fore. Most participants in the Scheme are in it for reasons unrelated to minimising the number of roadside inspections for their vehicles, such as being able to carry heavier loads. The changes have been such that it is now more appropriate to describe the policy as a national permitting policy, or as an audit-based compliance policy, rather than as an alternative compliance policy.

This report then examines whether the policy has met its original objectives. It finds that with respect to improving road safety, while it cannot unequivocally be said that the policy has improved road safety, there are indications to suggest that the policy may well have done so. With respect to improving transport efficiency, it can be strongly argued that the policy is directly or indirectly responsible for savings in the order of hundreds of millions of dollars.

This report then goes on to examine five overall options. These are: remove the policy; retain the policy; update the policy; update and improve the policy; and replace the policy with operator licensing. These options are evaluated against a range of criteria, including the objectives and principles of the National Transport Policy Framework. It is concluded that the option to update and improve the policy provides the best outcome against these criteria. This preferred option involves:

- updating the policy objectives to reflect how the policy is used;
- improving the integrity of the policy to increase the confidence that the policy is delivering its objectives this will also allow the further use of the policy with the opportunity for joint development of new standards by governments and industry;
- having a single national entity administer or oversee the policy this has the potential to overcome the problems with the current arrangements and will improve the integrity of the policy; and
- exploring whether further incentives for participating in the Scheme could be obtained by amending the Compliance and Enforcement Bill.

While the preferred option has not changed since the draft policy proposal was released in November 2007, some of the recommendations have. This reflects the development of single national regulator for heavy vehicles agreed by the ATC in May 2009. This regulator proposal provides another way to create a single point of administration for the Scheme nationally. This regulator reform can also improve the consistency and integrity of

the Scheme. The following table summarises the changes from the draft recommendations to the final recommendations.

Draft recommendation	Final recommendation	Comment
A government/industry national panel with an oversight role for the use of audit-based compliance.	A single national administrator for the policy (this is consistent with the proposed single national regulator for heavy vehicles).	The proposed heavy vehicle regulator reform was not being pursued when the draft recommendations were made. The proposed heavy vehicle regulator should have a process for industry consultation and input.
A marketplace for private scheme administrators to administer the requirements for audit-based compliance for regulatory purposes.	Review the auditor standards and arrangements.	The proposed heavy vehicle regulator has superseded the original draft recommendation. The final recommendation focuses on reviewing the auditor standards and arrangements as part of the transitional arrangements for the proposed heavy vehicle regulator.
	Review the mass and maintenance standards.	Stakeholder feedback during the review of the the mass and maintenance standards is needed.
To amend the model legislation for audit-based compliance, including ensuring that there is flexibility for additional standards.	Same recommendation as draft.	
Additional financial incentives for operators meeting new national safety standards.	NTC flags that further analysis is needed for financial incentives if this is to be pursued.	There may be demand-side incentives that can achieve the objective of having more operators using audited management systems e.g. road safety charter, government procurement policies preferring the use of accredited operators.
Guidance for courts when using accreditation standards for systematic non-compliers.	Not pursued.	Stakeholder feedback is that some courts are already using standards as sanctions.

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## 1. INTRODUCTION

The National Transport Commission (NTC) has a statutory responsibility to maintain and review agreed national transport reforms. As such, it undertakes reviews of these reforms after implementation to assess their ongoing relevance and effectiveness, and to determine what, if any, changes are needed to improve the reforms.

This review is about the alternative compliance policy. The Australian Transport Council (ATC) approved the alternative compliance policy in 1997. This policy in its implemented form is known as the National Heavy Vehicle Accreditation Scheme ('the Scheme'). Operators of heavy vehicles in the Scheme who could demonstrate that they were meeting specific standards would be subject to less roadside inspections compared to vehicles of operators not in the Scheme.

Sections 2 to 6 of this report review the alternative compliance policy. This review discusses the alternative compliance policy, where it fits within the regulatory framework for heavy vehicles in Australia, and evaluates whether the policy has achieved its objectives. Sections 7 to 11 explore five options for the future policy. After evaluating these options, the report concludes with a preferred option.

The NTC recommends that the ATC approve the preferred option as the direction of the future policy. If the ATC approves this proposal, further work is needed to develop the recommendations which will be brought back to the ATC for subsequent approval.

# 2. THE ALTERNATIVE COMPLIANCE POLICY

#### 2.1 Why was alternative compliance developed?

The aim of road transport regulation is to provide assurance to the community that vehicles and drivers are operating safely and in a manner that minimises the effects on the environment and provides efficient and productive outcomes.

Governments have traditionally used highly prescriptive legislation and direct roadside enforcement to achieve these aims. This results in all road transport operators being subject to enforcement regardless of their operational characteristics and demonstrated levels of compliance with the various laws that apply to road transport.

During the 1990s in Australia, there was growing awareness that there might be more effective ways of gaining compliance outcomes that were less intrusive and costly than those that were in use. Alternative compliance was considered to be one of these ways. It involves the use of voluntary alternatives to conventional methods of enforcement.

The benefit of alternative compliance to drivers and operators was they would be subject to fewer roadside inspections. The benefit to governments was that the limited enforcement resources could be targeted on heavy vehicles that were not in alternative compliance. This was expected to result in better use of the limited enforcement resources to improve overall compliance with road transport laws.

#### 2.2 What is alternative compliance?

During the original development of the policy, complying with road transport law was grouped into three types: conventional enforcement, alternative compliance, and licensing or mandatory accreditation.

**Conventional enforcement** is regarded as the primary method of enforcement for road transport law. In most cases, it relies on directly observing the offence. This may be by enforcement officers, or electronically through such devices as speed or red light cameras.

The term **alternative compliance** means voluntary alternatives to conventional methods of enforcement of road transport law. It is an incentive-based compliance approach. Alternative compliance offers incentives to operators who can show that they are complying with road transport law. This incentive approach can foster a co-operative approach to compliance and allows regulators to direct enforcement efforts in a more costeffective way.

**Licensing or mandatory accreditation** is the third way of complying with road transport laws. It is based on the premise that the right to operate a road transport business is a privilege that can be modified or taken away by administrative action. Under these schemes, the holder of a licence or accreditation agrees to comply with certain standards and obligations and the privilege of holding a licence is conditional upon continued compliance with those standards and obligations.

#### 2.3 What is the alternative compliance policy?

The Australian Transport Council approved the national policy for alternative compliance in 1997. This section describes the policy in detail.

#### 2.3.1 What is the problem?

The original proposal described the problem (NRTC 1998):

"Conventional road law enforcement is likely to be at its optimum point for ensuring compliance outcomes. Therefore other approaches need to be considered that complement conventional deterrence strategies. Alternative compliance is one such complementary measure to conventional deterrence strategies."

#### 2.3.2 What are the objectives?

The objectives of alternative compliance (NRTC 1998) were:

- improved road safety;
- increased transport efficiency; and
- reduction in the cost of administration of road transport.

It is useful to understand more about these objectives, because later the existing policy will be reviewed against these objectives.

For improved road safety, the policy proposal (NRTC 1998) stated that "generally, schemes should result in enhanced road safety through increased compliance with road transport law and improved on-road behaviour."

The policy proposal (NRTC 1998) stated the following for increased transport efficiency:

"Alternative compliance is intended to increase transport efficiency through reducing the costs of compliance as it allows operators greater flexibility in determining how compliance is monitored. It is intended that this will create greater innovation and lower cost outcomes. Alternative compliance may also enable reductions in delays caused by onroad enforcement, leading to increased vehicle productivity.

The objective of transport efficiency is not restricted to minimising costs for operators. The full social costs of road transport must be considered. For this reason, road wear and environmental effects must be considered when evaluating alternative compliance schemes. Regulatory agencies need to ensure that alternative compliance schemes do not compromise road safety standards in pursuit of efficiency."

Reducing the cost of administration of road transport would come from better targeted enforcement.

#### 2.3.3 What parts of transport law were included?

The alternative compliance policy was relevant to selected transport laws. These laws had the greatest scope to be verified under alternative compliance. In addition, these laws offered the most benefits to industry, enforcement agencies and the community. The specific laws relevant to the alternative compliance policy related to mass, maintenance (or vehicle standards) and fatigue.

Three state governments ran pilots to create these standards: VicRoads for mass, the Roads and Traffic Authority (RTA) NSW for maintenance and Queensland Transport for fatigue. These pilots were run with industry to ensure the standards were relevant and could be implemented. Box 1 shows the details for the maintenance and mass management standards.

The alternative compliance policy contained two standards: the mass standard and the maintenance standard. The policy stated that the fatigue management standards would be developed later and presented to the ATC. Developing the fatigue standards proved to be far more complex than the other standards, so they were only approved by the ATC in 2007 as part of the heavy vehicle driver fatigue reform.

#### 2.3.4 What was approved?

The ATC approved the alternative compliance policy in 1997 and a supplementary package in 1999. The approved national framework consists of the following:

- a set of principles governing national and non-national schemes;
- model legislation to provide a consistent basis for the policy;
- administration rules, called business rules, for those running the schemes;
- a sanctions model, for those running the schemes, with a hierarchy of sanctions if operators are not complying with the standards;
- the mass management module consisting of the standards, an audit matrix and a description of the regulatory flexibility that provides an incentive for complying with the standards; and

• the maintenance management module consisting of the standards, an audit matrix and a description of the regulatory flexibility that provides an incentive for complying with the standards.

#### **Box 1: Maintenance and mass management standards**

There are eight standards under maintenance management.

- 1. Daily check
- 2. Fault recording and reporting
- 3. Fault repair
- 4. Maintenance schedules and methods
- 5. Records and documentation
- 6. Responsibilities
- 7. Internal review
- 8. Training and education

There are eight standards under mass management.

- 1. Responsibilities
- 2. Vehicle control
- 3. Vehicle use
- 4. Records and documentation
- 5. Verification
- 6. Internal review
- 7. Training and education
- 8. Maintenance of suspension

The policy was voluntary and open to operators of heavy vehicles. Heavy vehicles are vehicles with a total weight of greater than 4.5 tonnes (gross vehicle mass). Light vehicles could also be included along with an operator's heavy vehicles.

As part of the policy, enforcement agencies would reduce the on-road checks for operators' vehicles in alternative compliance.

Additional flexibility was available to operators meeting the standards verified by thirdparty audit. This flexibility was:

- no annual vehicle inspection for an operator's heavy vehicles meeting the maintenance standard only some governments have annual vehicle inspections including NSW, Queensland and South Australia; and
- a weighing tolerance for an operator's heavy vehicles meeting the mass standard.

The policy also described what would happen if breaches of mass or roadworthiness standards were detected through roadside enforcement. The result would be the operator would be subject to the same offences as if they were not in alternative compliance, in addition to any action taken within the scheme.

The policy said that any operator would be allowed to join the alternative compliance scheme if they could show they were meeting the standards by audit through the approved processes. The policy stated "this would then allow automatic entry through suitable industry-based schemes".

The policy described two types of schemes: national schemes and non-national schemes. National schemes would be approved by the Australian Transport Council and would be recognised by all governments. The policy was flexible so individual governments could develop their own alternative compliance schemes for local needs; these are called non-national schemes.

# 2.3.5 How was the policy designed to operate?

State and territory agencies could offer the alternative compliance policy through the Scheme. Agencies would administer the scheme using the legislation, business rules and the audit sanctions model. These agencies would offer the scheme to operators. Operators wanting to join the national scheme needed to submit the following to the agency:

- a completed application form;
- a satisfactory audit report; and
- payment of a fee.

The application form contained some details from the operator relevant to the module they wanted to join, for example, the details of the operator's trucks and trailers nominated in the scheme. Labels, supplied by agencies, on these vehicles identify that the vehicles are in the scheme. At the roadside, enforcement officers could identify vehicles in the scheme, enabling these vehicles to be subject to reduced roadside enforcement.

A satisfactory audit report would mean that the operator was meeting the standards. Independent auditors would audit the operator's management system, procedures and records to see if they were meeting the standards. If the operator passed the audit, the auditor would record a successful audit. The policy required auditors to be certified by Quality Standards Australia.

The normal accreditation period in the national scheme was two years. There was flexibility to extend this accreditation period to three years under the policy. The required audits were aligned with the accreditation periods. When an operator first entered the national scheme, they were required to have an audit to confirm they had the management systems in place to meet the requirements of the standard. Within six months after being admitted into the scheme, the operator was required to have another audit undertaken to check compliance with the standard. Another audit was required within six months after the end of the accreditation period. Therefore, for an operator entering the scheme for the first time, three audits were required over the accreditation period. However, if the audits were satisfactory, the operator would be accredited for another two years and would only require an audit within six months after the end of the accreditation period. These audits undertaken as part of the accreditation process are called compliance audits.

The other type of audit used is called a triggered audit. These audits are undertaken when an agency has evidence that the operator may not be complying with the standards. This evidence is likely to come from roadside inspections. As an operator's vehicles were not totally exempt from roadside inspections, reports called interception reports would be completed by the roadside officers. The interception reports would be forwarded to the agency that accredited the inspected vehicle. In this way, the agency could build up a profile of compliance of the operator's vehicles between audits. If the profile from roadside inspections showed evidence of non-compliance, the agency could require a triggered audit of the operator.

Agencies could charge fees to operators. The policy had a provision so agencies could recover all costs for administering the scheme.

The agency could also check the compliance history of the operator when considering the application. The approval of an operator's application meant that the operator was meeting the requirements of the scheme, and could therefore access the benefits offered by the relevant standard or standards: the regulatory flexibility and reduced roadside enforcement.

This section described how the policy was intended to run. The next section describes how the policy actually runs.

#### Key points for section 2

- Alternative compliance was introduced to provide operators with 'alternative' ways to show compliance with selected road transport laws.
- Alternative compliance aimed to improve road safety, increase transport efficiency and reduce the cost of administrating road transport laws.
- The policy was developed from two pilot programs with industry for mass and maintenance management.

# 3. HOW DOES THE POLICY OPERATE?

This section describes how the policy operates in practice. There have been a number of government decisions which have affected the alternative compliance policy and these are discussed first. That discussion is then followed by a discussion of how governments now administer the policy and how operators now access the policy.

# 3.1 Decisions influencing the policy

Since the alternative compliance policy was approved in 1997, there have been decisions by governments that have changed the nature of the policy. Figure 1 shows these decisions and when they were made.

Page 7	

ATC approves the alternative compliance policy	ATC approves the higher mass limits policy	TACE re-affirms the national position for operator entry requirements into the Scheme	ATC approves: - new auditor arrangements - concessional mass limits - fatigue reform	
1997	1999	2002	2006	

# Figure 1. Key decisions influencing the alternative compliance policy

When the policy was introduced in 1997, it included additional flexibility for meeting the mass and the maintenance standards. Therefore, where the main benefit of alternative compliance is reduced roadside enforcement, the initial policy included other productivity benefits for industry.

In 1999, the ATC approved the policy for higher mass limits. Operators meeting two requirements of the policy could load their vehicle with greater mass than was available under general access conditions. These requirements were:

- road friendly suspension to be fitted to the vehicle; and
- the operator to be in the mass management module of the Scheme.

The policy for higher mass limits used the Scheme as a compliance-assurance mechanism. The main benefit of alternative compliance is less roadside enforcement, but for operators in higher mass limits the main benefit is productivity. This provides an incentive for operators to join the national scheme to access the higher mass flexibility. Although the higher mass limits policy is not part of the alternative compliance policy, the use of the Scheme as a compliance-assurance mechanism further changed the nature of alternative compliance. It has effectively shifted the policy rationale for alternative compliance and has created more industry flexibility than was available under the original alternative compliance policy.

TruckSafe is a business owned by the Australian Trucking Association. TruckSafe has created standards for operators and a system of accreditation for those complying with those standards. Up until 2002, operators accredited by TruckSafe were able to access the additional flexibility available under the maintenance standard. The operators did not have to directly join the Scheme run by government agencies. TruckSafe and government agencies had agreements in place for these arrangements. These were through informal agreements in South Australia and the Northern Territory, and through a memorandum of understanding in NSW. The Commonwealth also offered this to TruckSafe operators for federal interstate registered vehicles.

In 2002, TruckSafe was considering offering a mass management module, equivalent to the standards available under the alternative compliance policy. TruckSafe expected that operators that met its mass management standard would be able to access the additional flexibility available under the higher mass limits policy. Given the alternative compliance policy provided no guidance for the formal designation of industry schemes, like

TruckSafe, Transport Agencies Chief Executives in 2002 decided to restate the national agreed position that operators needed to join the national scheme through governments. As such, the arrangements government agencies had with TruckSafe were unwound and operators needed to join the Scheme directly. This showed that governments were seeking a higher level of integrity for industry accessing the more flexible access conditions than was envisaged with the original alternative compliance policy that offered limited benefits.

In 2006, the ATC approved the concessional mass limits policy. This replaced the weighing tolerance for operators meeting the mass management standard. The concessional mass limits policy maintained the current productivity levels for complying heavy vehicles following the removal of the weighing tolerance. For example, the existing one tonne gross mass 'administrative tolerance' for a 6-axle semi-trailer was replaced by a 0.25 tonne measurement adjustment on certified weighbridges. The ATC also approved revised Business Rules for the Scheme, which required suspension systems on accredited vehicles to be maintained according to the manufacturer's, or a qualified mechanical engineer's, specification; and taking into account the Australian Road Transport Suppliers Association's air suspension code. Further details on this reform are presented in Appendix A. Creating the concessional mass limits policy to replace the weighing tolerance showed that in 2006 there was the demand from government and industry to continue with this part of alternative compliance.

In October 2006, the ATC approved new standards for auditors. Operators must use an auditor certified by RABSQA<sup>1</sup>. The auditor must pass a written exam and undertake an audit that is assessed. The advantage of these new standards for operators is that now one audit report can meet the requirements of three schemes: the Scheme, Western Australia's Heavy Vehicle Accreditation and TruckSafe. This means operators can get one audit that meets the requirements of the three schemes, resulting in reduced audit costs. This showed that governments and industry wanted better standards for auditors to help improve the integrity of the policy.

In February 2007, the ATC approved the fatigue reform for heavy vehicle drivers. This reform included three options for work and rest:

- **Standard hours** that sets out minimum rest and maximum work hours and contains basic record keeping requirements.
- **Basic fatigue management** offers more flexible hours than standard hours. To access basic fatigue management, operators need to be accredited in the Scheme, and comply with six standards covering scheduling and rostering, fitness for duty, fatigue knowledge and awareness, responsibilities, internal review, and records and documentation.
- Advanced fatigue management offers more flexible hours than standard hours or basic fatigue management in return for the operator demonstrating greater accountability for managing fatigue risks. Rather than prescribing work and rest hours, advanced fatigue management takes a risk management approach. To access advanced fatigue management, an operator must be in the Scheme and comply with ten standards including scheduling and rostering, operating limits, readiness for duty, health,

<sup>&</sup>lt;sup>1</sup> RABSQA is a private organisation that provides personnel and training certifications.

management practices, workplace conditions, fatigue knowledge and awareness, responsibilities, records and documentation and internal review.

It was originally envisaged that the fatigue standards would be added to the alternative compliance policy. These standards have now been introduced, and match the compliance assurance outcomes required by governments with additional flexibility for industry.

Table 1 provides a summary of the flexibility available for operators in the Scheme.

Standard	Available flexibility	
Maintenance	Exemption from annual vehicle inspections.	
Mass	Concessional mass limits: vehicles can carry additional mass compared to general access.	
	Higher mass limits: vehicles can carry additional mass compared to general access. Vehicles also require road- friendly suspension.	
FatigueBasic fatigue management: more flexible work and regime compared to standard driving hours.		
	Advanced fatigue management: most flexible work and rest regime compared to standard driving hours.	

Table 1. Available flexibility for operators in the Scheme

# 3.2 Operation of the policy

This section describes how the policy operates, including areas where governments are currently undertaking improvements.

In 1999, the ATC approved model legislation to provide a consistent legal basis for the policy. Governments offering the national scheme were to replicate the model legislation to ensure a consistent basis for the reform. The model legislation has been implemented in three jurisdictions: South Australia, Queensland and Tasmania. Other jurisdictions have introduced their own regulations or administratively offer the Scheme.

Governments administer the policy individually but recognise decisions made by each other (apart from Western Australia). This means that for operators, a decision made by one agency is accepted by other governments so their vehicles can access the relevant flexibility.

This review has identified some cross-jurisdictional issues. These can impact on the integrity of the policy. A high level of integrity means that government agencies are confident that operators are continuously meeting the standards. A low level of integrity means that government agencies are not confident that operators are continuously meeting the standards. These cross-jurisdictional issues are:

- **varying levels of resources** for the national scheme by individual government agencies;
- differing ways of administering the scheme by government agencies; and

• some **limitations on data exchange** between government agencies about operators in the national scheme.

The varying levels of resources available to government agencies impact on the integrity of the scheme. In NSW and South Australia, there are five staff administering the scheme, in Queensland seven staff, and in Victoria three staff. It was not possible to assess the number of full-time equivalent staff represented by these numbers, as these staff do other work beside administer the national scheme. All agencies undertake triggered audits with the number of audits undertaken being dependent on the resources available. There is anecdotal evidence of several cases where one agency has requested another agency to undertake a triggered audit based on roadside enforcement information, but where the audit was not conducted. While agencies undertake some triggered audits, it appears from information obtained for the purposes of this report that government agencies do not undertake random audits. Undertaking random audits may improve the overall compliance by providing an additional motivation for operators to continually meet the standards.

Government agencies have different ways of administering the scheme that can impact on its integrity. For example, some agencies require operators to submit the audit reports, that the agency staff then review and follow-up if necessary. Other agencies only require written confirmation from the auditor that the operator passed the audit. In addition, some agencies undertake triggered audits more frequently than other agencies.

Exchanging operator information between government agencies has been an on-going problem since the policy was introduced. This information is important for enforcement purposes and knowing whether the operator is entitled to the additional flexibility. Currently, some data is exchanged between governments each month, but not all data. In one case, the agency cannot open the data files supplied by other agencies because of the computer systems they are using. Currently, the Roads and Traffic Authority of NSW has a project investigating more frequent exchange of data for the purposes of the Scheme.

While these integrity problems are not great enough to hinder the current operation of the Scheme, they need to be fixed to allow greater public confidence that operators are meeting the required standards for accessing the additional flexibility. These problems also have the potential to limit the further use of audit-based compliance.

There are formal and informal communications between government agencies about the national scheme. There is a Scheme committee chaired by the NTC and made up of government agencies that administer the national scheme. This committee meets at least twice a year. In this forum, government agencies discuss operational issues and exchange information about how they administer the scheme. This has been a useful forum to help align agencies' practices for the national scheme.

The current auditor arrangement has been in place since October 2006. The ATC decision was to have RABQSA administer auditor certification. The current business rules also try to influence auditor integrity. For example, the 'two-audit rule' in the business rules limits the number of consecutive audits an auditor can undertake of an operator to two.

The application fees for operators vary between states, but these differences are not significant and are unlikely to lead to agency shopping by operators. Agencies do not set fees on a cost-recovery basis although the alternative compliance policy contained the principle that governments could fully cost recover.

The alternative compliance policy allowed individual governments to administer nonnational schemes. These non-national schemes would be local schemes with the local agency assessing its scheme against the national principles of alternative compliance. There do not appear to be any non-national schemes that have been assessed against these principles. Therefore, the non-national schemes part of the alternative compliance policy is not being used.

The numbers of operators in the Scheme has grown since the policy was introduced. There are about 2,700 operators accredited to the Scheme (see Table 2). This represents 1.2% of all heavy vehicle operators in Australia. Although the proportion of operators is low, they operate over 24% of the articulated vehicles in Australia.

Government agencies do not collect other information about operators in the Scheme, so it is not possible to provide further data about the industry sectors that use the policy. From discussions with industry and governments, it appears that many of these operators are in the hire-and-reward sector, that is, they offer their trucking services for hire.

Jurisdiction	Operators	Number of articulated vehicles
Victoria	883	12,292
NSW <sup>2</sup>	480	13,500
South Australia	586	10,347
Queensland	750	23,500
Total	2,699	59,639

Table 2. Operators and vehicle in Scheme by state, 2006

This section has discussed the decisions influencing the policy since 1997 and the way the policy currently operates. But a key question for this review is whether it is still appropriate to describe the policy as alternative compliance. The next section answers this question.

#### Key points for section 3

- Over time, the flexibility associated with the policy has grown, and as such governments have sought higher levels of integrity.
- The policy is administered by individual agencies as envisaged by the original policy proposal.
- There are some problems that can impact on the integrity of the policy. While these integrity problems are not great enough to hinder the current operation of the scheme, fixing these problems would provide greater confidence in the policy and the further use of the policy in the future.
- The policy is used by a small percentage of heavy vehicle operators but they operate over 24% of the articulated vehicles in Australia.

<sup>&</sup>lt;sup>2</sup> NSW figures as of April 2009 were 955 operators and 25,241 vehicles.

# 4. IS THE POLICY STILL ALTERNATIVE COMPLIANCE?

# 4.1 What is the policy now?

Alternative compliance provides a more flexible approach to the normal operating conditions approach to road transport law. Under normal operating conditions, compliance is checked through roadside enforcement. Through alternative compliance, governments know much more about the compliance activity of vehicle operators and therefore have greater confidence in those operators are complying with the law. This greater scrutiny and the resulting confidence that those operators are complying with higher standards allows those operators to do things that they would not otherwise be permitted to do.

Over time, the alternative compliance policy has matured from offering limited incentives (less roadside enforcement) to what is in place today. The policy could now be better described as a national permitting policy, and the current use of the policy could now be better described as 'audit-based compliance', that is, regular audits show whether or not the operator is complying with the required standards. Under audit-based compliance, there is scope to match the level of the standards with the flexibility (that is, the incentives) offered. Therefore, compared to the original alternative compliance policy, audit-based compliance offers a greater range of compliance assurance and flexibility.



Figure 2. Comparing alternative compliance and audit-based compliance against compliance outcomes and flexibility

In the document establishing the alternative compliance policy (NRTC 1998), the NRTC indicated that introducing incentives beyond reduced roadside enforcement would change the character of the policy:

"The association of alternative compliance with significant concessions (e.g. higher mass) would require careful consideration. If concessions were granted, competitive pressures may force operators to seek entry regardless of their ability to meet standards. In addition, suspension or removal of membership may result in significant commercial disadvantage.

For these reasons, concessional schemes are likely to require more rigorous processes. This may include closer scrutiny of scheme applicants, more intense audit of scheme members and more severe sanctions for breaches of scheme requirements. Greater rigour would involve higher costs for operators and increased scheme membership would involve greater administrative resources for road transport agencies."

In the rest of this report, the alternative compliance policy as it currently operates will be referred to as audit-based compliance. This better describes how the policy is used.

# 4.2 The Australian approaches for regulating road transport

This section describes the two approaches used in road transport regulation in Australia. This discussion provides the context for examining where audit-based compliance for operators of heavy vehicles fits within this overall regulatory framework.

In road transport, there are two levels of operating conditions: general access and above general access. General access refers to the normal operating conditions in road transport law. For example, the requirements to operate a car on a public road are a valid driver's licence, a registered car and to obey the road rules. Above general access refers to operating conditions above the general access conditions. There are additional requirements for operating at above general access. For example, the higher mass limits policy requires the vehicle to have road friendly suspensions and the operator to be in the Scheme.

Table 3 provides some examples of general access and above general access conditions. Some laws only have general access conditions. For example, there are no above general access conditions for maximum speed limits.

Transport law	General access	Above general access
Mass	Maximum levels for vehicle classes	Concessional mass limits and higher mass limits
Speed	Speed limits apply Maximum speed of 100 km/h for vehicles greater than 12 tonnes	None
Fatigue management	Specific conditions for drivers of heavy vehicles, e.g. 12 hour maximum work in a day	Basic fatigue management and advanced fatigue management

Table 3. Examples of general access and above general access conditions

The first approach to regulating road transport is setting normal operating conditions that apply to all for general access (see Figure 3). This approach encompasses all the road transport laws that apply to operating a vehicle on public roads. These normal operating conditions usually increase over time to achieve better transport outcomes. For example, the introduction of an Australian Design Rule for seat belts as a vehicle requirement in 1969, followed by a law for compulsory seat belt wearing in 1972, and the subsequent enforcement, has led to Australia having one of the highest seat belt wearing rates in the world (ATSB 2004). Enforcement tools also improve over time to increase compliance with the law and achieve the policy objectives of the law. For example, the use of speed cameras has improved compliance to speed limits where the cameras are situated. Point-topoint speed cameras are being introduced in some states. These cameras can detect a failure to comply with speed limits over a length of road rather than at an individual point of the road.

The second approach to regulating road transport provides additional compliance outcomes and flexibility. National reforms that use the flexible approach are audit-based compliance, the intelligent access program and performance-based standards. These national reforms are aimed at matching compliance assurance outcomes with above general access conditions.

Regulating light vehicles in Australia uses the first approach of normal operating conditions applying to all. Regulating heavy vehicles uses both approaches because goods transport is fundamental to the Australian economy. Improving productivity outcomes for goods transport benefits Australian consumers and exporters.

There are distinct differences between the two approaches to regulating road transport. The normal operating conditions approach applies to all who use the roads or who may influence the compliance with road transport law. The other approach only applies to those who volunteer to do so. Participation in the other approach is only likely by those who see benefits in participating. Thus, the number of participants in the other approach is small (1.2%, as previously stated) compared to the overall population of road users.

It needs to be recognised that the more flexible approaches that are currently offered are unlikely to attract the majority of operators of heavy vehicles. Most operators do not require this additional flexibility; the normal operating conditions and general access currently meets their needs. However, other types of flexibility may be more attractive to operators that are not in the Scheme. Given the diversity of heavy vehicle operators, with the majority of them using heavy vehicles as an additional part of their businesses, improving the normal operating conditions is likely to be the more successful regulatory approach to improve transport outcomes for these operators compared to more flexible regulatory approaches.



#### Figure 3. Approaches to road transport regulation in Australia

# 4.3 How does the policy fit with the regulatory framework for operators of heavy vehicles?

This section describes where the policy fits with the current regulatory framework for operators of heavy vehicles in Australia.

# 4.3.1 Open or licence requirements for operators

In Australia, the national regulatory framework does not require operators to obtain licences for running heavy vehicle transport businesses. That is, there are no additional barriers to operators running a road transport business except meeting existing road transport law. Having no additional barriers to enter the road transport industry for operators is called open access.

While the national regulatory framework for operators of heavy vehicles does not include operator licensing, state and territory laws currently require operator licensing for specific sectors or vehicle classes. If the operator decides to run a business in these specific sectors or for these vehicle classes, it is mandatory for them to obtain a licence to operate. For example, all states and territories require operator licences for buses. Other states and territories require tow truck operators to have a licence to run a business. In Western Australia, operator licensing is compulsory for operators of restricted access vehicles (such as B-doubles and road trains). This Western Australian operator licensing is called 'Heavy Vehicle Accreditation.'

The current audit-based compliance policy is not mandatory for operators. Operators can voluntarily choose to join the arrangements so they can access the flexibility associated with meeting the standards. Therefore, the policy is consistent with open access.

# 4.3.2 General access and above general access

Audit-based compliance is consistent with this second approach by providing additional flexibility with matching compliance assurance. This additional flexibility means operators can operate at above general access conditions.

# 4.3.3 Where does the policy fit across the regulatory spectrum?

Figure 3 shows the spectrum of policy instruments. This spectrum is bound at one end by the free market and at the other end by prescriptive government regulation.

The audit-based compliance policy is performance regulation. The ATC has set compliance standards (mass, maintenance and fatigue management) and auditor standards. Operators meeting the compliance standard confirmed by a certified auditor can apply to operate at concessional access levels.



Source: OECD (2002)

# Figure 4. Spectrum of regulatory and non-regulatory policy instruments

# 4.3.4 Where do industry accreditation schemes fit in?

Industry accreditation schemes are voluntary for operators. Operators will only join industry accreditation schemes where they see benefits. Along the spectrum of policy instruments, industry accreditation schemes are private sector voluntary regulation.

The road transport industry is characterised by diverse needs. Most operators of heavy vehicles do not belong to an industry association. Indeed, most operators of heavy vehicles are unlikely to see themselves as part of the road transport industry. Rather, they operate a heavy vehicle as an ancillary part of their business, for example farmers. As such, voluntary industry accreditation schemes are likely to attract operators that are part of industry associations. Like the more flexible approaches to regulation such as audit-based compliance, industry accreditation schemes are likely to have a low proportion of the overall operators.

The important difference between industry accreditation schemes and audit-based compliance is that the latter is linked to regulatory access; industry schemes are not. In this sense, audit-based compliance is better characterised as a national permitting system.

## 4.4 How is the current policy used by government and business?

This section describes how the current audit-based compliance policy is used by governments, operators, customers and consultants.

Governments currently use the policy to deliver flexibility and compliance outcomes. These requirements mean that governments have more information about the compliance of that operator's business than if the operator only used general access conditions. Under general access, the only information about compliance would come from roadside inspections or electronic means (e.g. speed cameras). Therefore, governments are using the policy as a compliance-assurance tool to allow operators meeting the requirements to run at above general access conditions.

From the consultation conducted for the purposes of this report, it is clear government agencies support using the policy to deliver compliance and productivity outcomes. There was also recognition by some government agencies that the integrity of the policy can be improved by doing things such as reviewing the standards and the frequency of audits.

Operators use the policy for the flexibility available above the general access conditions. There are other benefits resulting from the use of management systems by operators including:

- insurance discounts;
- lower maintenance costs;
- marketing that they have a compliant business;
- ability to undertake contracts where the customer specifies that an operator needs to have audited systems to manage risk; and
- as evidence they are taking reasonable steps to manage specific risks under the Compliance and Enforcement laws (see Box 2 for details about this reform).

These benefits can also result from operators using industry accreditation schemes.

From the consultation conducted during this review, two operators argued that better monitoring of those in the Scheme was needed. These operators alleged that other operators were in the Scheme but did not meet the standards between audits.

Customers of road freight services and others in the transport chain are using the policy to help meet their chain of responsibility requirements under the Compliance and Enforcement laws. For example, customers are using the policy to set procurement conditions for contracts.

Businesses providing consulting services or standards to operators are using the policy in two ways. Firstly, some companies have tailored their products to meet the compliance standards. For example, the Ezi-checker product establishes procedures for operators to meet the maintenance standard. Secondly, the policy has been used along with other standards in a broader safety or compliance product. For example, TruckSafe's standards align with the Scheme's maintenance and mass standards, but TruckSafe offers a broader suite of standards including workplace, driver health, training and speed compliance.

While governments use the policy to deliver greater compliance outcomes and industry flexibility, business - operators, freight customers and consulting services - uses the policy in different ways.

## Box 2: Chain of responsibility

Chain of responsibility is a key initiative targeting those who, by their actions, inactions or demands, put drivers' lives and other lives at risk, and gain an unfair competitive advantage if drivers break the law.

The traditional approach in road transport law in Australia has been to apply legal liability for not operating safely on drivers only. Where attempts were made to hold other parties such as owners and operators accountable, this was generally through legally cumbersome 'cause or permit' or 'aid and abet' laws. Prosecution of other parties in the transport chain was rare, and tended to occur only for serious offences.

The major weakness of the traditional approach is that it ignores the actions of many other parties (including 'off-road' parties such as consignors, manufacturers and loaders). Knowingly or unknowingly, the actions (or failure to act) of these parties can have a major effect on drivers' fatigue, speeding, overloading and load restraint behaviour. Former road transport laws tended to have little, if any, deterrent effect on these parties.

However, under the chain of responsibility approach, all who exercise control over conduct that affects compliance have responsibility, and may be made accountable, for any failure to discharge that responsibility. This includes primary producers, miners, manufacturers, retailers, importers, exporters, tourism operators and all other parties involved in road freight and passenger transport.

This is achieved by the clear identification of the responsibilities of various parties and holding them legally accountable for breaching them. The new approach is far more direct and effective in securing accountability for non-compliance than the previous laws, and enables all parties to know their legal obligations from the outset.

The chain of responsibility laws are designed to apply to all road transport offences, ranging from minor breaches of log book recording to actions contributing to a serious spill of dangerous goods from a truck.

# 5. DOES THE POLICY MEET THE ORIGINAL OBJECTIVES?

This section evaluates the policy against the three original objectives. For the purposes of this assessment, it should be noted that the mass and maintenance standards have been in place since the policy was introduced in 1997, while the fatigue standards have only been available since September 2008.

# 5.1 Improved road safety

The first objective of the alternative compliance policy was improved road safety. The document establishing the policy (NRTC 1998) stated: "generally, [alternative compliance] schemes should result in enhanced road safety through increased compliance with road

*transport law and improved on-road behaviour.*" To assess against the objective of improved road safety, it is necessary to explore the evidence to see if the policy has improved road safety.

The loss of lives and the injuries from crashes on Australian roads results in significant economic costs, estimated at \$18 billion per year (NTC 2008). Governments have directly intervened to attempt to reduce these costs rather than to use a market-based mechanism. As such, there are many safety interventions in place in Australia and these have contributed to an improving long-term trend with the road toll (see Figure 5). Some safety interventions or a reduction in speed limits. However, for other interventions, it is not possible to directly measure the resulting safety impact with the available data. This is definitely the case with the alternative compliance policy. Even so, it is possible to draw some qualitative conclusions based on the available evidence.



Notes: RBT – random breath tests.

# Figure 5. Road deaths in Australia: 1965 to 2007

Source: Department of Infrastructure, Transport, Regional Development and Local Government.

A report by Austroads (2008) explores whether safety is improved by operators meeting standards verified by third-party audit. The study included data on operators in the Scheme. The report concluded that:

- Operators' vehicles in the Scheme have a lower crash risk than operators' vehicles that were not in the Scheme.
- Similar results were found for the private TruckSafe safety system.

• Operators' vehicles in the Scheme or TruckSafe had 50 to 75% lower crash rates compared with operators' vehicles not in these programs.

The Austroads research shows a correlation between safety outcomes and accredited operators, but does not demonstrate a causative relationship. The Austroads research only examined crash risk and did not extend to crash severity. Thus, there is no information about deaths or injuries resulting from these crashes.

Some additional data to support the correlation between safety outcomes and accredited operators is available from National Transport Insurance (NTC 2007). Research on this data compared the claims rates of operators before and after becoming TruckSafe-accredited. It was found that the average cost of claims during the two years before accreditation was 2.3 times higher than during the two years after accreditation. For the operators with 10 or less trucks, the ratio was 1.6. Some care is required with these results as the sample size was small (13 operators with the majority having 10 or fewer trucks).

A US study (Short 2007) shows that an operator's safety culture can prevent truck and bus crashes. The study identifies five performance shaping factors that relate directly to safety: inattention, lack of motivation, poor physical condition, inadequate knowledge, and lack of awareness. The study also identifies 11 organisational factors that directly affect the performance shaping factors: workload, formalisation of safety rules, benefits, quality of life, performance evaluation, personnel selection, personnel turnover, training, supervision, organisational learning, and communications. A number of these factors can be directly related to introducing procedures by operators to meet the standards in accreditation. These are therefore relevant to operators' safety culture.

The accreditation process also introduces monitoring, reporting, and actions to address identified risks. For example, daily checks of vehicles are required in the maintenance standard. The audit also provides a feedback mechanism about compliance with the standards, which allows operators to improve their internal processes. Therefore, the relevant organisational factors for audit-based systems such as accreditation include formalisation of safety rules, performance evaluation, training, supervision, organisational learning and communications. These organisational factors lead to a better safety culture that can prevent crashes.

Safety management system approaches are commonly used in occupational health and safety and other industries, such as aviation and rail, to manage risk and improve safety. There is a substantial body of evidence that the safety management system approach can improve safety (Reason 1997). This approach uses hazard identification, risk assessment and risk management. The standards in heavy vehicle accreditation and audit-based compliance use a safety management system approach. In discussions with operators as part of the review, some have stated it is the 'close the loop' discipline introduced through the standards – the checks, documenting and follow up actions – that has improved their internal business systems. These companies have developed a systemic approach and can observe the benefits from these systems. For example, some operators have stated that they have fewer mechanical breakdowns of vehicles due to the maintenance processes. Therefore, the management system approach of the standards used in heavy vehicle accreditation, coupled with the internal management systems required of operators, can lead to improved road safety and benefits to business.

Sanctions available under some accreditation schemes are likely to deter accredited operators from allowing their safety performance to decline. The threat of triggered audits and the suspension or cancellation of accreditation is likely to perpetuate operator vigilance

in maintaining safety performance. This factor may be more important for government accreditation schemes, due to the potential loss of regulatory flexibility, than private accreditation schemes.

The size of the operator's fleet may influence safety outcomes. Research from the US (Moses and Savage 1994) shows that the largest operators have crash rates about a third of those of the smallest operators. These larger organisations tend to have introduced risk-management approaches and compliance programs as necessary management tools for their more complex operations, and they often have more resources and can employ staff specifically for risk management and compliance purposes. In turn, these lead to better safety outcomes. However, examination of available Australian literature reveals there is little, if any, difference between the safety performance of owner operators, small operators and employee drivers. For example, a survey of drivers in NSW (Quinlan 2001) found little statistical difference between the proportion of owner drivers, small fleet drivers and large fleet drivers involved in a crash in the past five years.

Another factor for the improved safety performance of accredited operators compared with non-accredited operators is that it is the more responsible operators who are likely to seek and gain accreditation. These operators see the advantages and benefits of becoming accredited. As such, operators in accreditation are self-selecting; that is, the safer operators are the ones most motivated and able to gain accreditation, and this is reflected in the safety data. This is the view of one state road transport association. Responsible operators are characterised by a range of traits and qualities, including management commitment to road transport safety and compliance, good employer-employee relationships and a strong occupational health and safety culture.

The industry sector that operators are in is also a factor. For example:

- operators in the hire-and-reward industry will have larger heavy vehicles and therefore are more likely than the ancillary sectors to seek the regulatory flexibility offered under audit-based compliance; and
- the cost of keeping a B-double off the road for a vehicle inspection is much higher than that for a small rigid truck, and therefore the costs of setting up and maintaining accreditation under the Scheme's maintenance module for an operator with a fleet of B-doubles can be recouped from the benefits of not having the vehicles off the road for a day for the annual vehicle inspection.

Operators of larger trucks (e.g. semi-trailers, B-doubles and road-trains) have the most incentives to join either the mass or the maintenance module of the Scheme. Information about which industry sectors accredited operators were in was not available from the Austroads research, and does not appear to be available anywhere else.

From this discussion, it appears that there are a number of factors that can lead to better safety outcomes for operators. The Austroads research shows a correlation between accredited operators having fewer crashes. But for different operators, different factors will apply, as was indicated by the US study (Short 2007) previously mentioned. For some operators, becoming accredited may not have led to any safety improvement. These operators may have had systems in place to manage risk, and they joined to access the regulatory flexibility. Other operators enter accreditation for the regulatory benefits initially, but then find the broader benefits of having systems in place. The safety performance of these operators may have improved as a result. The limited National Transport Insurance data (NTC 2007) support this argument.

There is a substantial body of evidence (Reason 1997) that the safety management system approach improves safety outcomes, and because this approach is also used in the standards and management systems of an operator, this is another factor that can lead to improved road safety outcomes. It is also likely that for some operators, the policy resulted in them improving road safety because they introduced risk-management systems for the first time. However, the number of operators that this is applicable to is unknown.

There does not appear to be any research that suggests that the introduction of the alternative compliance policy has led to worse road safety outcomes for accredited operators.

In summary, while it is not possible to say unequivocally that the introduction of the alternative compliance policy has resulted *"in enhanced road safety through increased compliance with road transport law and improved on-road behaviour"* (NRTC 1998), it is probably fair to say that the policy has not led to worse road safety outcomes for accredited operators, and may well have led to better road safety outcomes for a number of those operators, and hence all road users.

# 5.2 Increased transport efficiency

The alternative compliance policy was expected to increase transport efficiency through reduced delays of heavy vehicles caused by roadside enforcement. However, being in alternative compliance would not totally exempt operators' vehicles from interception. This is because alternative compliance focuses on a restricted set of transport laws, while roadside interception can cover all transport laws.

It was only possible to obtain anecdotal evidence about whether there is increased transport efficiency from reduced on-road enforcement. Road agencies say that vehicles in the national scheme are subject to reduced on-road enforcement. Views from operators were mixed. Some operators said vehicles in the national scheme are targeted more for roadside enforcement. Other operators could not tell if these vehicles received the same amount or reduced on-road enforcement compared to vehicles that are not in the national scheme. It is therefore not possible to determine whether there was increased or decreased transport efficiency resulting from reduced roadside enforcement.

Some in industry want operators in the Scheme to be subject to reduced roadside enforcement compared to non-accredited operators. One reason this has been difficult to achieve is that the information collected by police forces and road transport agencies from roadside inspections or by other means is not shared.

However, the flexibility for mass and maintenance available under the national scheme has resulted in increased transport efficiency. The NTC has previously estimated (NTC 2006) that the concessional mass limits standard would produce net benefits with a net present value in 2006 of at least \$105 million over the following 10 year period and a benefit-cost ratio of at least 2.8. In the draft version of this report (NTC 2007) a similar estimate suggested that the maintenance standard would produce net benefits with a net present value in 2007 of at least \$174 million over the following 10 year period with a benefit-cost ratio of 3.4. Therefore, the total transport efficiency for these two standards results in very significant financial benefits.

The benefits from the policy for higher mass limits have not been included in this analysis because that policy uses the Scheme merely as a compliance mechanism. Therefore, it is

not appropriate to directly attribute the benefits from that policy to the alternative compliance policy.

As previously discussed, it is also fairly clear that in jurisdictions that require annual vehicle inspections, there are worthwhile savings to accredited operators in the Scheme's maintenance module resulting from the fact that they do not have to have their vehicles inspected each year.

In summary, while it is not clear whether there has been increased transport efficiency resulting from operators' vehicles in alternative compliance being subject to fewer roadside inspections, it is clear that increased transport efficiency in the order of hundreds of millions of dollars of financial benefits results directly from the regulatory flexibility provided in relation to compliance with the mass and maintenance standards of the Scheme.

#### 5.3 Reducing the costs of administering road transport

An objective of the alternative compliance policy was to reduce the cost of administering road transport laws. The key benefit to enforcement agencies was that inspection and enforcement resources could be largely refocussed to concentrate on operators' vehicles not in alternative compliance.

There does not appear to be any data available to enable an evaluation of whether alternative compliance has led to reduced administration costs of road transport laws, nor whether the policy resulted in better targeting of enforcement resources.

From discussions with government agencies, it appears the introduction of the alternative compliance policy did lead to additional resources being available to administer the policy. These resources were in addition to the resources for conventional enforcement. In one sense, the policy did not lead to resources being diverted away from conventional enforcement. However, it could be argued that these additional resources might be better used in conventional enforcement rather than administering the national scheme. Data was not available to evaluate the compliance outcomes of resources in conventional enforcement compared with resources administering the alternative compliance policy.

#### **Key points**

Assessment against the original policy objectives of alternative compliance shows:

- the policy may well have improved road safety for some operators;
- the policy has increased transport efficiency; and
- it was undetermined if the policy has reduced the costs of administering road transport.

#### 6. SUMMARY OF REVIEW FINDINGS

Key findings of the review are:

- The alternative compliance policy has matured into a mechanism that offers compliance assurance outcomes and increased flexibility for industry. Although the policy is somewhat changed from its original intent, the policy is consistent with providing a flexible regulatory approach for heavy vehicles.
- Government agencies have adopted the policy as it provides compliance assurance outcomes and flexibility for industry, but agencies want to improve the integrity of the policy.
- Operators like the policy as it provides greater flexibility above general access conditions, but some want greater compliance outcomes for all operators that use the policy. Some in industry want operators in the Scheme to be subject to reduced roadside enforcement compared to non-accredited operators.
- The policy may well have improved road safety for some operators.
- The policy's flexibility has increased transport efficiency to a very significant extent.

Although the current policy in use is different to the intent of the original alternative compliance policy, the current policy provides good outcomes. In discussions with governments and industry, no one has suggested that the current policy should be removed. Rather, these discussions focused on how to improve the current system or how to improve overall safety outcomes.

An important question for this review, given that the current policy appears to be worthwhile and is still needed, is whether it is likely that the policy will meet future needs.

The policy will meet future needs if it is provided with a mechanism that can match compliance assurance outcomes with access flexibility. The current policy provides three types of standards: mass, maintenance and fatigue. But it can provide the mechanism for the development of higher standards and compliance outcomes by industry and governments that can lead to additional flexibility. The current example of this is the joint development of standards for livestock transport by the Australian Livestock Transporters Association and Queensland Transport that is being undertaken. This process was the way the mass, maintenance and fatigue standards were developed.

Consistent with providing flexible regulatory approach, it needs to be recognised that most operators won't require the additional access flexibility currently available under the policy. The regulatory context of the audit-based compliance policy needs to be recognised, and it needs to be voluntary for participants. Any discussions of mandatory standards should not be confused with mechanisms under the flexible regulatory approach such as audit-based compliance. Discussions about mandatory standards should be in the correct regulatory context for Australia and be about the normal operating conditions for general access.

In any future policy for audit-based compliance, it is also necessary to recognise the key differences between accreditation schemes. Audit-based compliance should not be confused with operator licensing used by state governments in Australia. Audit-based compliance is voluntary and is part of the flexible regulatory approach; operator licensing is mandatory and is part of normal operating conditions for selected vehicle types. In addition, audit-based compliance should not be confused with industry accreditation.

Audit-based compliance is linked with regulatory access for above general access conditions, and in this context it is better described as a national permitting system; industry accreditation is not linked with regulatory access for above general access conditions. Table 4 summarises the similarities and differences between audit-based compliance, operator licensing and industry accreditation.

	Audit-based compliance	Operator licensing	Industry accreditation
Process	Standards with regular third-party audits	Standards with regular third-party audits	Standards with regular third-party audits
Voluntary or mandatory	Voluntary	Mandatory	Voluntary
Where it falls on regulatory and non- regulatory spectrum (see figure 4)	Performance regulation	Performance regulation	Private sector voluntary regulation
Approach	Flexible regulation	Normal operating conditions	Developed for industry needs
Access flexibility	Above general access	General access	General access

 
 Table 4. Similarities and differences between audit-based compliance, operator licensing and industry accreditation

During the course of conducting this review it has become clear that there is a need for a broader compliance strategy to describe where all the current and potential future compliance tools fit together in road transport regulation. Without this broader compliance strategy, the role of audit-based compliance compared to the role of electronic-based compliance tools is uncertain. This broader compliance strategy can articulate levels of compliance assurance that match the risks of the road transport activity. This will assist in describing the future role of audit-based compliance compared with other compliance tools.

The rest of this review examines the future policy options for audit-based compliance. Given the changes in the policy over time, it is first suggested that the problem statement and objectives from the original alternative compliance policy should be updated. Then five options for the future audit-based compliance policy will be explored. These options are evaluated against a range of criteria including the National Transport Policy Framework's objectives and principles (ATC 2008). The preferred option results from this evaluation.

# 7. REVISING THE POLICY'S PROBLEM STATEMENT AND OBJECTIVES?

In this section, a suggested revised problem statement and statement of objectives for the audit-based compliance policy is put forward.

#### 7.1 **Problem statement**

The problem with the regulatory framework for heavy vehicles during the 1990s was that it did not have approaches that allowed increased compliance outcomes and greater flexibility for industry. However, Australia now uses this more flexible approach to regulation. Audit-based compliance is consistent with this approach.

# 7.2 Objective

The objective of the policy should now be to improve compliance outcomes while enabling greater flexibility for industry.

The compliance outcomes can be improved by operators developing management systems that meet standards that are above the requirements of normal operating conditions for general access. Independent audits on the operator's management systems verify if the standards are being met. For operators meeting these standards, increased flexibility is offered.

This objective reflects that the reform is consistent with the flexible approach used in road transport regulation.

The original alternative compliance policy had the objective of improved road safety. While the objective of this audit-based compliance policy doesn't explicitly state improved safety, greater compliance with road transport laws should lead to improved road safety.

The next section assesses five options for the policy.

# 8. OPTIONS

This section explores policy options to address the problem statement and objectives. Five policy options are described individually including an evaluation of the impacts of the option. These options are not an exhaustive list of all the options available. Rather, the five options provide a range of possible actions. The NTC has also used feedback from stakeholders to select the options presented.

# 8.1 Option 1: Remove the policy

This option removes the alternative compliance policy resulting in the removal of the Scheme.

#### **Evaluating the impacts of this option**

The impacts of this option are:

- reduced transport productivity;
- reduced costs for government administering the policy;
- possibility of reduced road safety; and

• removing the compliance mechanism for the fatigue reform and the higher mass limits policy.

Removing the alternative compliance policy removes a national policy that provides a mechanism for flexibility above general access conditions coupled with better compliance assurance. This option would result in lost transport productivity of hundreds of millions of dollars over time from the loss of the flexibility available under the mass and maintenance standards, and would result in higher road transport costs. This option also means that governments stop administering the policy, resulting in reduced costs.

Removing the policy could reduce road safety. This will occur if operators currently in the national scheme change their practices and management systems that result in poorer practices leading to reduced road safety. However, this is difficult to quantify because there are no studies available that examine operator behaviour of this type.

Removing the policy also has impacts on the fatigue reform and the higher mass limits policy. The fatigue reform uses the national scheme and processes required of operators to meet the fatigue standards by audit. Removing the policy would remove a key compliance mechanism for above general access fatigue management. This is also the case for higher mass limits, where the national scheme is used as a requirement to access the flexibility for above general access.

# 8.2 Option 2: Retain the policy

This option retains the status quo.

#### **Evaluating the impacts of this option**

This option maintains the current situation. It retains the alternative compliance policy delivered through the Scheme. Therefore, there are no additional costs and benefits of this option.

# 8.3 Option 3: Update the policy

This option updates the policy framework for the current audit-based compliance policy delivered through the Scheme. This option recognises that the alternative compliance policy has matured and today offers increased compliance assurance and industry flexibility.

This option is essentially the same as the status quo (option 2) but provides new policy objectives to recognise the changed policy in use.

# **Evaluating the impacts of this option**

The benefit of this option is having clear objectives and a clear rationale for the policy. This option will adopt the new problem statement and objectives described above in section 7. There will be no changes for operators currently in the Scheme.

There will be some government costs to update the business rules and information provided to operators about these changes.

# 8.4 Option 4: Update and improve the policy

This option updates the policy, as outlined in option 3, and improves the policy. These improvements to the policy are:

- **Improve the regulations and standards of the policy.** This includes extending and amending the national model legislation for the policy, reviewing the current auditor standards and arrangements, and reviewing the mass and maintenance standards.
- **Improve administering the policy.** The policy should be administered or overseen a single national entity.
- Create further demand for operators meeting compliance standards. Further incentives for operators to join the Scheme might be created by amending the Compliance and Enforcement Bill.

These improvements have been grouped under one option for the sake of convenience. Each of these improvements could be undertaken independently from the others.

The first and second improvements focus on the framework and administration. These improvements provide a modern legislative underpinning for audit-based compliance with a single national entity administering the policy.

As a first improvement, it is proposed that the existing national model legislation be extended, amended and applied with a view to replacing the current situation where government agencies have different legal instruments for the policy. This will provide a consistent legal framework for the reform. As discussed above, model legislation was developed for the alternative compliance policy and was introduced in three states. The model legislation for the fatigue reform introduced a legal framework that covers part of the overall audit-based compliance framework relevant to fatigue. It is proposed to extend the model audit-based compliance legislation to provide a similar framework for the mass and maintenance standards to ensure that a consistent legal framework underpins all audit-based compliance. It is also proposed to make the model legislation flexible so that other standards can be introduced, if needed, at a later date.

A number of people consulted, in particular those representing regulatory agencies, expressed a view that the mass and maintenance standards, and the auditor standards, should be reviewed to ensure that they reflect current best practice. There were suggestions that these standards do not at present. As these standards are crucial to the proper functioning of the Scheme, it is therefore recommended that they be reviewed to ensure that they do reflect best practice.

The heavy vehicle regulatory reform exercise that is currently being undertaken is considering the option of a national regulator for heavy vehicles (Department of Infrastructure, Transport, Regional Development and Local Government, 2008). If such a regulator is established, it is recommended that one of the functions of the regulator be to administer the policy. This will enable a more consistent process for industry than the current approach where multiple government agencies administer the policy. It will also allow some of the cross-jurisdictional data sharing problems to be overcome, with one body collecting and maintaining operators' information that can be accessed by states and territories. It should be noted that under the heavy vehicle regulatory reform exercise, it is intended that access decisions for heavy vehicles will still reside with state and territory governments.

There are alternatives to a national entity administering the national policy for audit-based compliance. Two alternatives are:

• improve the current way the Scheme is administered; and

• use a national panel to administer the Scheme.

Improving the current way the Scheme is administered requires additional resources to improve the integrity (for example, for more triggered audits and undertaking random audits). A more consistent approach to administering the scheme is needed. The data exchange between agencies for Scheme information also needs improving. However, beyond the driver licensing and registration information, data sharing improvements for heavy vehicle information have not achieved their desired outcomes in the past.

The other alternative is to use a national panel to administer the policy. There are many variants of this alternative including:

- the national panel to be an incorporated body;
- a single government agency could administer the policy with the national panel providing oversight; and
- the national panel could directly contract the administration of the policy to a private company.

These are viable alternatives. However, given that the heavy vehicle regulatory reform is being developed, the working group developing the proposal should consider how best to administer the audit-based compliance policy within the framework being proposed. However, if the heavy vehicle regulatory reform exercise does not propose to change the current administrative arrangements, then the alternative options discussed above should be considered to overcome the current problems with administration of the policy.

The third improvement focuses on creating further incentives for operators to join the Scheme. It is proposed that work be undertaken to explore the possibility of amending the Compliance and Enforcement Bill to provide, in relation to minor risk categories of offences, that operators that are maintaining management systems that meet standards (confirmed by audit) can use that fact as evidence that they took reasonable steps to meet their relevant obligations under that Bill. There is already a provision in the Bill that makes similar provision where operators meet the requirements of a registered industry code of practice. This amendment would provide industry with additional flexibility in the ways to demonstrate they are meeting their requirements under the Bill.

Freight customers can also create a demand for operators meeting compliance standards with auditing assurance. This is already happening with freight customers specifying that operators need to be in the Scheme or to be TruckSafe-accredited. Government procurement practices specifying the use of operators meeting compliance standards can help drive this demand. It is also proposed that work be undertaken to explore the possibility of amending the Compliance and Enforcement Bill to provide, in relation to minor risk categories of offences, that freight customers that use accredited operators can use that fact as evidence that that they took reasonable steps to meet their relevant obligations under that Bill.

Another way of creating further incentives for operators to join the Scheme is by developing additional compliance standards. These standards might be for specific road transport sectors or vehicle types. This is the process used in developing the three pilots that resulted in the mass, maintenance and fatigue standards. As an example of this, Queensland Transport and the Australian Livestock Transporters Association are currently developing specific compliance standards for operators running livestock trucks. This joint development provides industry with the standards and implementation tools tailored

specifically for that industry sector. It also provides governments with input on the standards and adds rigour to the auditing process for meeting the standard. Any flexibility for industry in meeting the standards can be piloted through these arrangements, and will need to involve all states and territories if the flexibility is to be offered nationally.

#### **Evaluating the impacts of this option**

Updating the policy achieves the benefits outlined under option 3: clear objectives and a clear rationale for the policy.

Improving the policy provides:

- a modern legal framework for the policy;
- the single government body administering the policy with resources to improve the integrity of the policy, consistently administer the policy, and distribute scheme data to government agencies; and
- the opportunity to bring more operators into the Scheme.

There will be costs to government in amending the model legislation for audit-based compliance and amending the Compliance and Enforcement Bill.

This option proposes reviewing the mass and maintenance standards, and any changes in these standards means that operators need to update their management systems to reflect these changes. However, if the standards are changed in any way, a transitional period for operators to update their management systems can minimise this impact, for example, by permitting operators to delay updating their systems until their next scheduled audit. There will also be costs to government in reviewing these standards.

This option also proposes to review the current auditor arrangements. Any changes to the standards may have an impact on auditors but again a transitional period for introducing any proposed changes can minimise these impacts. There will be costs to government in reviewing these standards.

Providing flexibility in the model legislation for the audit-based compliance policy means new standards can be adopted at a later time. Any new national standards will require an assessment of the impacts, and this information is likely to come from a pilot of the standards. New compliance standards would be considered nationally if the benefits outweigh the costs.

# 8.5 Option 5: Replace the policy with operator licensing

This option introduces operator licensing as a condition for general access of the road network by heavy vehicles. This option is premised on improving road safety by requiring all operators to show they are meeting selected transport laws by an audit.

Establishing operator licensing would require model legislation, administrative guidelines and standards.

It is envisaged that a system of operator licensing would involve an applicant demonstrating they have developed systems for risk management and safety management that satisfy a pre-determined compliance standard. It is only on being able to show this that a road transport operator would be granted the licence, and accordingly, the right to operate.

This option could be achieved by legislating to require all heavy vehicle operators to show they are meeting transport laws as a precondition to carrying out their operations. It requires operators to show an ongoing capacity and competency to operate safely through independently conducted audits.

#### Evaluating the impacts of this option

The current audit-based compliance policy provides greater compliance outcomes and increased industry flexibility. Operator licensing is different as it would be part of the normal operating conditions for general access. Therefore, this option is fundamentally different to options 2, 3 and 4.

Introducing this option would have a profound impact on the road transport industry and regulatory environment for road transport in Australia. To date, operator licensing has been a common regulatory tool used in many countries other than Australia. It is also routinely used in other transport modes, for example, rail transport. Around 80% of OECD countries regulate commercial road freight operators through licensing regimes, many of which link licensing arrangements to a quality assessment or safety rating. In the USA and Canada, for example, licensing is linked to safety or risk ratings and in the UK, operator licensing requires applicants to satisfy minimum standards pertaining to the suitability of premises to garage and maintain vehicles, as well as demonstrating they are of good repute and have a knowledge of road transport law.

In Australia road transport operators have been able to participate in the road freight industry and gain access to the general road network as long as their vehicles are registered and they use licensed drivers. Additional flexibility for industry has been linked to greater compliance outcomes. Importantly, this additional flexibility has been voluntary; operators can freely choose to enter these arrangements or not.

Mandatory operator licensing will impose additional costs on operators who do not currently meet the compliance standards. The impact of this option should not be underestimated. A feature of the arrangements is that the operator, rather than the government, bears all of the costs associated with audits to prove compliance, this is likely to prove more burdensome for small operators, who form the bulk of the industry.

Introducing operator licensing could force a proportion of small operators to close. These small operators may not be able to meet the additional costs or requirements of the compliance standard. Alternatively, it could lead to a set of 'illegal operators'. Such a development could have perverse outcomes, for example, by forcing previously law-abiding operators to take compliance shortcuts when it is no longer possible to continue to make a living from operating within the legal requirements.

Operator licensing may not lead to increased road safety. If the lower crash rates of operators currently in accreditation could be extended to all operators through operator licensing, this would improve road safety. However, the Austroads data does not provide a profile of operators who choose to participate in accreditation at present. There is data to suggest that voluntary participants are in fact those who have a heightened appreciation of the benefits of systems-based management for safety and commercial outcomes, and are those who see the compliance costs of participation as being offset by those outcomes.

Evaluating the safety results from operators in state-based operator licensing arrangements may provide evidence that operator licensing can improve road safety. However, no data is available in Australia about this. Western Australia's operator licensing system for restricted access vehicles was introduced in 2003. An evaluation of the crash rates of restricted access vehicles before and after the system was introduced may provide this data.

Studies of the benefits of operator licensing in achieving their objectives do not present a compelling case for operator licensing. USA and UK studies suggest the mandatory operator licensing systems in these countries are extremely costly and resource-intensive

schemes to run; the quality of the administrative and information systems used to monitor operators has been a major problem and expense; ensuring all operators are not operating without being licensed requires significant on-road enforcement effort; and follow-up on those whose safety performance is unsatisfactory is not adequately implemented.

A one-size-fits-all compliance assurance approach such as operator licensing does not distinguish between those who are likely to offend and pose a high safety risk and those who are compliant and safe. If operator licensing is introduced, all operators would be obliged to meet the required standards, including those who have a very different safety and compliance performance profile and culture to those who are participating in the accreditation at present. Hence, it is unlikely that the same safety benefits flowing from accreditation to individual operators participating voluntarily at present would flow to all operators who might be compelled to become accredited if this option is implemented in the future.

Australia has a modern approach to regulating road transport, which involves a complementary suite of compliance strategies, including strong, conventional (sanctionbased) compliance legislation that reflects the chain of responsibility concept, combined with other compliance enhancing strategies. To date, the benefits of the national chain of responsibility and compliance reforms have only partially been realised due to the slow pace of implementation in most jurisdictions. In 2003, the estimated projected benefits were in the order of \$240 million (NRTC 2003). Ultimately, determining the effectiveness of these reforms must wait until they have been implemented nationally and have been operating for a period of time.

Although Australia does not use operator licensing nationally for all heavy vehicle operators, there are national sanctions available to remove the right for an individual to operate heavy vehicles or to place specific conditions if they wish to continue to operate. These national sanctions are available under the Compliance and Enforcement Bill. They constitute 'negative licensing' where requirements can be placed on operators.

In Australia, the voluntary nature of the Scheme has meant that operators have only participated if they believe that the benefits to their businesses exceed the costs. It is possible that because audit-based compliance arrangements are voluntary they are likely to have a greater acceptance by business, which is likely to translate into higher levels of compliance (Ironfield, 2001).

Ironfield (2001) notes that while Australia's approach to regulating the road freight industry is not the same as the approach adopted in other OECD countries, there is no evidence to indicate that the lack of any form of operator licensing for road freight has had a detrimental effect on road safety outcomes in Australia. Instead of pursuing operator licensing in Australia:

"It would appear to be good sense to follow the current regulatory reform path rather than switch to an entirely new regulatory approach like operator licensing. If governments did decide to pursue a form of mandatory operator licensing care should be taken to ensure that the benefits outweighed the costs. Importantly, government should also be certain that the considerable resources that would be required to put in place an effective form of operator licensing would not produce greater benefits if they were directed elsewhere."

# 9. EVALUATION OF THE OPTIONS AND THE PREFERRED OPTION

In this section, the five options are evaluated against a set of criteria to determine the preferred option. These criteria include addressing the problem statement, achieving the policy objectives and overcoming the problems identified with the current policy. In addition, the options were assessed against the objectives and principles of the National Transport Policy Framework that the Australian Transport Council published in May 2008.

In summary, the five options were evaluated against the following:

- Addressing the problem statement: The regulatory framework for heavy vehicles during the 1990s did not have approaches that allowed increased compliance outcomes and greater flexibility for industry. However, Australia now uses this more flexible approach to regulation. Audit-based compliance is consistent with this approach.
- Achieving the policy objective: The objective of the policy is to improve compliance outcomes with greater flexibility for industry.
- **Overcoming problems identified with the current policy**. The main issue is that the integrity of the policy is impacted by:
  - varying levels of resources for the national scheme by individual government agencies;
  - o differing ways of administering the scheme between government agencies;
  - o some limitations between government agencies on data exchange for the national scheme.
- **Objectives of the National Transport Policy Framework:** economic, safety, social, environmental, integration and transparency (see Appendix B).
- **Principles of the National Transport Policy Framework:** infrastructure pricing, competitive markets, private sector, national regulation, national markets and customer (see Appendix B).

#### 9.1 Addressing the problem statement

Options 2, 3 and 4 will contribute to addressing the problem statement as they keep, update or improve the current incentive-based compliance policy. Replacing the policy with operator licensing (option 5) does not provide a flexible approach to regulation. Option 1 removes the policy and removes a flexible regulatory mechanism.

Therefore, options 2, 3 and 4 address the problem statement.

# 9.2 Achieving the policy objective

The policy objective is not relevant to option 1 as it removes the policy. Options 2, 3 and 4 achieve this objective (although option 2 does not include updating the original policy objectives of alternative compliance). Operator licensing (option 5) would be part of the normal operating conditions for general access, and as such, it is different to the current voluntary approach that improves compliance assurance outcomes with flexibility. Therefore, option 5 does not meet this policy objective.

In summary, options 2, 3 and 4 achieve the policy objective.

# 9.3 Overcoming problems identified with the current policy

Retaining the status quo (option 2) and updating the policy (option 3) does not address the integrity problems with the current system. Option 4 can overcome the current problems by resourcing the administration of the national policy to an appropriate level, providing consistency in administration and overcoming data exchange problems. Operator licensing (option 5) can also overcome the problems with the current policy with appropriate resourcing, although the overall costs of this option are likely to outweigh the benefits.

In summary, options 4 and 5 overcome the problems identified with the current policy.

# 9.4 Meeting the objectives of the National Transport Policy Framework

Of the objectives of the National Transport Policy Framework, the two that are most relevant to this review are the economic objective and the safety objective.

The economic objective is to promote the efficient movement of people and goods in order to support sustainable economic development and prosperity. Options 2, 3 and 4 are consistent with this economic objective by retaining an incentive-based compliance policy. As discussed in section 7.2, the current policy provides very significant financial benefits. In turn, lowering transport costs benefits consumers and provides exporters with lower supply chain costs for their goods. Option 1 removes the policy and the economic objective. Option 5 replaces the current system with operator licensing. The costs of operator licensing are not likely to outweigh the benefits, and therefore this option is not consistent with this economic objective.

The safety objective is to provide a safe transport system that meets Australia's mobility, social and economic objectives with maximum safety for its user. The current policy provides an enabling mechanism to deliver on this safety objective. Options 2, 3 and 4 retain the compliance-assurance mechanism and are therefore consistent with this safety objective. Option 1 removes this compliance mechanism; this may result in worse road safety although the costs cannot be quantified. As such, option 1 is not consistent with this safety objective. Option 5 replaces the voluntary compliance mechanism with a mandatory mechanism. It can be argued that retaining this compliance mechanism in option 5 is consistent with this safety objective.

In summary, options 2, 3 and 4 are consistent with both the economic and safety objectives of the National Transport Policy Framework.

# 9.5 Meeting the principles of the National Transport Policy Framework

Of the principles of the National Transport Policy Framework, the two that are most relevant to this review are national regulation and national markets.

The principle for national regulation is a national perspective should be adopted where regulation is required. Options 2, 3 and 4 are consistent with this principle. Options 2 and 3 provide national model regulation where agencies replicate the model regulation into state or territory legislation. To date, variations typically appear when jurisdictions replicate model regulation. Option 4 provides the greatest opportunity for national regulation that is consistently applied. Option 1 is consistent with this principle if all governments remove the current policy. However, if this was done, states and territories are likely to provide the same policy at a local level and this is likely to result in national inconsistency. Option 5 would be consistent with the national perspective of this principle if a single entity

administered the regulations for operator licensing. However, there is not strong evidence that a mandatory operator licensing system is required, and therefore option 5 is not consistent with the principle for national regulation.

The principle for national markets is to encourage national markets where possible. Option 1 removes the current policy, but it is likely that states and territories would retain a similar local approach. Local approaches are not likely to encourage national markets and therefore this option is not consistent with this principle. Options 2, 3, 4 and 5 are consistent with this principle. However, option 4 provides the greatest opportunity to encourage a national market with consistent application of the policy.

Of the five options, option 4 provides the best outcomes with both the national regulation and national markets principles of the National Transport Policy Framework.

# 9.6 Preferred option

A summary of the options against the assessment criteria is shown in Table 5. Based on assessment of the options against the criteria, option 4 provides the best outcome across all the criteria. Therefore, the preferred option is option 4.

While option 1 could not be directly assessed against three of the five criteria, the main argument to reject this option is on economic grounds. This option will result in a loss of hundreds of millions of dollars over time to industry and this will flow on to higher transport costs for business and, ultimately, consumers. For that reason this option is not recommended.

While options 2 and 3 are viable options, they do not overcome the problems with the current policy. Compared to option 4, options 2 and 3 limit the further use of audit-based compliance due to the integrity problems of the current arrangements. Option 4 overcomes these problems. Therefore, option 4 is preferred over options 2 and 3.

Option 5 replaces the policy with operator licensing. The main reason to reject this option is that the costs of mandatory operator licensing may not outweigh the benefits. In addition, the consideration of operator licensing would need to be made with reference to a broader range of regulatory options, taking into account the potential for it to have a significant impact on the structure of the Australian industry, enforcement agencies and their priorities. For example, retention of accreditation (operator licensing) requirements as part of the rail safety regulatory regime was made as part of the recent review of the coregulatory regime, taking into account the interfaces between accreditation, general duties in the style of occupational health and safety regulations, safety management system requirements, hierarchy of sanctions and enforcement powers, institutional and governance arrangements, etc.

Although Australia does not have a national operator licensing system for road transport, it has negative licensing built into the national regulatory framework. Therefore, Australia has the sanctions available to operator licensing (e.g. removing the right to operate a heavy vehicle) but without the cost of administering operator licensing. This option cannot be rejected out of hand at this stage, but it cannot be considered appropriately in the context of this review. Indeed, this review results in this option not meeting four of the five assessment criteria.

Option 4 is the only option that meets all five assessment criteria. Improving the integrity of audit-based compliance will allow the policy to operate so that all stakeholders have confidence the policy is achieving its desired objectives. This also allows governments the

further use of this policy where it is the appropriate compliance mechanism for flexibility for industry.

Criteria	Option 1: remove the policy	Option 2: status quo	Option 3: update the policy	Option 4: update and improve the policy	Option 5: replace the policy with operator licensing
Addressing the problem statement	n/a	$\checkmark$	$\checkmark$	$\checkmark$	x
Achieving the policy objectives	n/a	✓	$\checkmark$	$\checkmark$	x
Overcoming problems with the current policy	n/a	X	X	$\checkmark$	$\checkmark$
Meeting the objectives of the National Transport Policy Framework	x	~	~	$\checkmark$	x
Meeting the principles of the National Transport Policy Framework	x	~	~	$\checkmark$	x

Table 5. Summary of the options against the assessment criteria

n/a – not applicable

# **10. CONSULTATION**

This section describes the consultation process, and the major changes made to the proposal since the draft of this report was released in November 2007.

The consultation process included the release of a discussion paper in October 2006 for public comment. Seven submissions were received, and these are available on the NTC's website (www.ntc.gov.au). Meetings with key government and industry stakeholders were held after the release of the discussion paper.

In November 2007, the draft of this report was released for public comment. Stakeholder comments on the discussion paper were considered in developing the draft paper. Sixteen submissions were received, and these are available on the NTC's website. To further the discussion on the draft proposal, a workshop with key government and industry stakeholders was held in December 2007.

Since this time, there have been meetings with government and industry stakeholders about the final proposal. During September to November 2008, there were consultations with government and industry on the final recommendations in this report. These stakeholders generally support the final recommendations in this report.

The major change from the draft proposal to the final proposal has been about administering the national scheme. The draft policy proposed a national panel with government and industry representation. This national panel would certify businesses to administer the national scheme. In this way, governments would leave the administration of Scheme arrangements to the private sector and take a more strategic role in setting standards and ensuring that scheme administrators met and continued to satisfy the certification criteria. Although some parts of industry could see merit in this recommendation, government agencies argued that the recommendation would add an extra approval that operators would require before accessing the regulatory flexibility. One government agency argued that this would not streamline the accreditation process.

Since this time, the ATC has requested that a heavy vehicle regulatory reform exercise be undertaken. This option was not considered in the draft accreditation proposal, but this new reform provides another way to overcome the problems with the current approach to administering the policy. A key difference between the single entity and the national panel administering the policy is that industry was directly represented on the national panel. The option for a single government entity to administer the policy is likely to have an industry advisory group or some other mechanism to allow industry to put forward its views. In addition, the recommendation to allow industry to jointly develop standards with governments and propose these standards be adopted into the audit-based compliance framework provides industry another opportunity to have input into future compliance standards.

Another change from the draft policy proposal to this final proposal related to providing incentives. The draft proposal recommended establishing financial incentives for operators to maintain accreditation. These financial incentives could include discounts on the component of the heavy vehicle charges related to enforcement costs. Government stakeholders argued that there were already industry benefits provided through the regulatory flexibility and they didn't see the need to offer these financial incentives. In addition, government stakeholders argued if the discounts on this component of the heavy vehicle charges were offered, it would be difficult to calculate the discount amount and the performance standard that operators would need to show to receive the discount. One government agency stated that further analysis on this incentive would be required as it could distort the whole freight market given that most vehicles in accreditation are above 12 tonnes gross vehicle mass.

It was concluded that further work is needed to develop the advantages and disadvantages of any financial incentives. Furthermore, this work could also include other incentives such as government programs to assist operators to develop management systems within their business.

The last change from the draft proposal removed the proposal to develop guidelines for applying standards and auditing processes for systematic offenders. The draft policy outlined that as part of the Compliance and Enforcement sanctions. Improvement notices and intervention orders could use the standards and processes of audit-based compliance to monitor the compliance of systematic offenders. These offenders would not be able to access the flexibility offered under the Scheme because it was a specific sanction for monitoring compliance. Some states already apply this type of monitoring for systematic offenders. Rather than developing this proposal as part of this audit-based compliance policy, if there is still an interest by governments for these guidelines, it is proposed that they be developed as part of general compliance policy.

Some in industry want operators in the Scheme to be subject to reduced roadside enforcement compared to non-accredited operators. In practice, reduced roadside enforcement for accredited operators' vehicles has been difficult to achieve. A project that can focus on this issue is the National Heavy Vehicle Enforcement Strategy. The ATC gave in-principle approval to this strategy in early 2008. The aims of this strategy are:

- increased use of intelligence-driven enforcement;
- to promote consistent, effective and efficient enforcement practices;
- increased co-operation and understanding between industry and enforcement agencies;
- to provide specific and appropriate training for enforcement officers; and
- increased co-operation and information sharing by enforcement agencies.

This strategy recommended establishing a national heavy vehicle enforcement council with police and road agency representation to develop specific projects to achieve these aims. This council would work with industry to achieve these aims. This council could undertake a study to compare the roadside compliance of accredited operators' heavy vehicles with operators' vehicles that are not accredited. If this study found that accredited operators' vehicles are more compliant than other vehicles, this provides evidence for developing enforcement practices to reduce roadside enforcement of accredited vehicles.

# **11. CONCLUSION**

This report has reviewed the alternative compliance policy. Alternative compliance was intended to provide a more flexible approach to the normal operating conditions for road transport law. Under normal operating conditions, compliance is detected through roadside enforcement which can be either manual (e.g. vehicle inspection) or electronic (e.g. speed cameras). Through alternative compliance, governments know much more about the compliance of a business than under the normal operating conditions approach. This greater scrutiny, and the resulting confidence that these businesses are complying with higher standards than normal operating conditions, allows these businesses additional flexibility.

Over time, the alternative compliance policy has matured to what is in place today. The current use of the policy is now better described as audit-based compliance. Under audit-based compliance, there is scope to match the level of the standards with the flexibility offered. Therefore, compared to the original alternative compliance policy, audit-based compliance offers a greater range of standards and flexibility.

It was found that governments and industry like the current policy. However, they would like changes to improve the policy. The policy is also delivering very significant productivity benefits.

Five policy options were examined and assessed against a range of criteria, including the objectives and principles of the National Transport Policy Framework. It was concluded that the option to update and improve the policy provides the best outcome against these criteria. This preferred option involves:

- updating the policy objectives to reflect how the policy is used;
- improving the integrity of the policy to increase the confidence that the policy is delivering its objectives this will also allow the further use of the policy with the opportunity for joint development of new standards by governments and industry;
- having a single national entity administer or oversee the policy this has the potential to overcome the problems with the current arrangements and will improve the integrity of the policy; and

• exploring whether further incentives for meeting audit-based compliance standards could be obtained by amending the Compliance and Enforcement Bill.

It is therefore recommended that the ATC give in-principle approval to the following proposals:

- to update the policy objectives for audit-based compliance;
- to amend the model legislation for audit-based compliance, including ensuring that there is flexibility for additional standards;
- to review the mass and maintenance standards;
- to review the auditor standards and arrangements;
- to consider amendments to the Compliance and Enforcement Bill to provide further incentives for meeting audit-based compliance standards; and
- to consider having a single national administrator for the policy.

This review has also identified the need for a broader compliance strategy to describe where all the current and potential future compliance tools fit together in road transport regulation. One key question is how to match the compliance assurance to the relative risk of a specific road transport activity. The recommendations in this review improve the audit-based compliance tool, but this broader compliance strategy is needed to describe the future of audit-based compliance and other compliance tools. The benefits of developing this compliance strategy for industry is that there will be more certainty in the way compliance tools are used by governments. The benefits to both governments and industry are that the compliance assurance tool used is appropriate for managing the risk of the specific road transport activity.

In these recommendations to ATC, endorsement of the policy direction for audit-based compliance is sought. This policy direction includes specific proposals for additional work. If the ATC approves this proposal, this additional work would need to be undertaken and submitted to the ATC for approval. These recommendations would require a fuller assessment of costs and benefits than has been undertaken in this report, particularly where a change to regulations is involved.

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# APPENDIX A: CONCESSIONAL MASS LIMITS POLICY

Source: NTC information bulletin 2006.

Concessional Mass Limits will provide mass benefits for operators accredited under the National Heavy Vehicle Accreditation Scheme mass management module from 1 July, 2006. Austroads has reviewed its enforcement guidelines to replace the existing National Association of Australian State Road Authorities 'administrative tolerance' for mass with a Measurement Adjustment based solely on weighing equipment accuracy and site characteristics. This will effectively reduce on road general mass limits as from 1 July, 2006.

Concessional Mass Limits will enable accredited operators to broadly retain current National Association of Australian State Road Authorities tolerance levels. Operators will need to be accredited under the Scheme's mass management module. Under Concessional Mass Limits, the gross vehicle mass of vehicles with tandem and tri-axle groups will be set at 5% above general mass limits, subject to:

- a maximum increase of 1 tonne for a vehicle or vehicle combination with an allowable gross mass not exceeding 55 tonnes (e.g.: 6-axle semi-trailer);
- a maximum increase of 2 tonnes for vehicle combinations with an allowable gross mass exceeding 55 tonnes (e.g.: 9-axle B-double); and
- an upper limit on axle and axle group mass as given in the table of Concessional Mass Limits (below).

#### Suspension maintenance

A requirement to maintain a vehicle's suspension system as part of the Scheme's mass management accreditation is based on the recognition that road wear can be influenced by the condition of the vehicle suspension system. All accredited vehicles, including trailers supplied by other parties, must have their suspension systems maintained and replaced according to manufacturer's (or a qualified mechanical engineer's) specification; and taking into account the Australian Road Transport Suppliers Association's air suspension code. In effect, this will require operators to document the specifications, frequency of checks, fault reporting, decision-making and evidence of repairs by qualified persons.

A transition period of six months (to 1 January 2007) has been allowed to meet the new accreditation standard. Printed copies of the Air Suspension Code can be purchased by telephoning 1800 649 578. An online version can be downloaded at the following link: http://www.artsa.com.au/codes.html.

#### **Hired trailers**

A statement of compliance with the suspension maintenance standard from the trailer supplier must accompany accredited vehicles.

#### Access restrictions

Operators operating at Concessional Mass Limits will have access to the same network as currently applies to the particular vehicle class unless prescribed to the contrary by state and territory regulation.

# **Concessional Mass Limits**

Concessional mass limits (national policy)	Mass limit (tonnes)
Tandem axle groups	
Fitted with single tyres with section width of:	
a) less than 375 mm	11.5
b) 275 mm or more but less than 450 mm	13.8
c) 450 mm or more	14.5
Fitted with single tyres on one axle and dual tyres on the other axle	13.5
Fitted with dual tyres	17.0
Tri axle groups	
Fitted with single tyres with section width of less than 375 mm on all or part of the axle group	15.5
Fitted with dual tyres and/or single tyres with section width of at least 375 mm	21.0

# **Other requirements**

All heavy vehicles must not exceed the manufacturer's rating and must comply with axle spacing formulas appropriate to General Mass Limits.

#### Implementation

Implementation through state and territory regulation should be checked prior to operating to Concessional Mass Limits. A number of road agencies have flagged minor deviations from the national policy.

Common vehicle types	Max. Steer	Max. Single Axle	Max. Tandem Axle	Max. Tri-Axle	Max. Gross
<b>5</b>	6.0	9.0		3 S.	15.0
	6.0		17.0		23.0
seles vee	6.0		17.0	21.0	43.5 <sup>1</sup>
	6.0		17.0		43.5
10	6.0		17.0	21.0	64.5
effer	6.0		17.0	21.0	81.0
	6.0		17.0	21.0	117.5

Note:

General mass limits are the baseline for truck and dog trailers

(not the limits currently allowed under local arrangements).

#### Measurement adjustments and breach ranges for Austroads guidelines

#### Measurement adjustments (all masses are in tonnes)

Axle Group		Measurement adjustment	
	Category 1 weighing	Category 2 weighing	Category 3 weighing
Single axle with single tyres	0.3	0.3	0.4
Tandem axle with single tyres (or combination of single and dual tyres)	0.3	0.4	0.5
Single axle with dual tyres	0.4	0.4	0.5
Tandem axle with dual tyres	0.5	0.5	1.0
Triaxle	0.5	0.5	1.0
Gross mass	0.25 per weighing step	0.5 per weighing step	1.0 per weighing step

The three categories of weighing will be defined in the mass measurement guidelines that are currently under development. In short:

- Category One Generally at certified weighbridges;
- Category Two Generally at well set out temporary roadside sites on portable scales in good conditions; and

• Category Three - Generally conducted under less favourable conditions than Category 1 or Category 2 weighings. In the interests of certainty, the mass measurement guidelines will place limits on the circumstances where heavy vehicles can be weighed even with a Category 3.

#### Weighing step

When calculating gross mass, the relevant measurement adjustment will be applied each time the vehicle is moved during the weighing process, even if it returns to the same point after the weighing as before the weighing.

# APPENDIX B: NATIONAL TRANSPORT POLICY FRAMEWORK'S VISION, POLICY OBJECTIVES AND POLICY PRINCIPLES

Source: ATC 2008.

#### Vision for Australia's Transport Future

Australia requires a safe, secure, efficient, reliable and integrated national transport system that supports and enhances our nation's economic development and social and environmental well-being.

# **Transport Policy Objectives**

To achieve this vision, Australia's Transport Ministers commit to the following policy objectives:

- **Economic**: To promote the efficient movement of people and goods in order to support sustainable economic development and prosperity
- **Safety:** To provide a safe transport system that meets Australia's mobility, social and economic objectives with maximum safety for its user
- **Social:** To promote social inclusion by connecting remote and disadvantaged communities and increasing accessibility to the transport network for all Australians
- **Environmental:** Protect our environment and improve health by building and investing transport systems that minimise emissions and consumption of resources and energy
- **Integration:** Promote effective and efficient integration and linkage of Australia's transport system with urban and regional planning at every level of government and with international transport systems
- **Transparency:** Transparency in funding and charging to provide equitable access to the transport system, through clearly identified means where full cost recovery is not applied.

# **Transport Policy Principles**

Australia's transport policy framework is underpinned by the following guiding principles:

- **Infrastructure pricing:** sending the appropriate signals to influence supply and demand for infrastructure;
- **Competitive markets:** establishing competitive markets wherever possible to minimise the need for regulation;
- **Private sector:** involve the private sector, where it is efficient to do so, in delivering outcomes;
- **National regulation:** a national perspective should be adopted where regulation is required;
- National markets: encourage national markets where possible; and
- **Customer: Customer** focussed. Equitable access for all users.