



HEAVY VEHICLE
INDUSTRY AUSTRALIA



HVIA Submission

On the Automated Vehicle
Safety Reforms – Public
Consultation (April 2024)

June 2024

Heavy Vehicle Industry Australia
Represents and advances the interests of manufacturers
and suppliers of heavy vehicles and their components,
equipment and technology.



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Background

Heavy Vehicle Industry Australia (HVIA) is the peak industry association for Australian manufacturers of trucks and trailers (collectively referred to as heavy vehicles), as well as the dealerships, repairers, suppliers, and service providers that support the entire industry. We represent almost every major truck manufacturer/importer, all of Australia's major trailer manufacturers, and an ever-growing list of their component, equipment and technology providers.

HVIA's 300-plus corporate members collectively employ a local workforce of over 70,000 staff. Our member's interests cover an extensive range of vehicles, starting with 3.5-tonne light commercial trucks, and extending all the way up to Australia's unique 50-metre long, 100-tonne road trains.

The industry provides some of the world's most efficient, safe, innovative, and technologically advanced vehicles. HVIA seeks to work with government and industry stakeholders to promote an innovative and prosperous industry that supports a safe and productive heavy vehicle fleet operating for the benefit of all Australians.

Introduction

HVIA is committed to working with all regulators and road managers to ensure that the industry and wider society can benefit appropriately from advances in new technology, specifically in the areas of safety, productivity, and efficiency.

HVIA acknowledges the extensive and on-going work undertaken by all stakeholders, but particularly the National Transport Commission (NTC) and the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DoITRDCA) in this area since 2016.

This work has produced several key decisions and agreements over the future regulatory framework for automated vehicles, including the current consultation package and its twenty detailed questions.

HVIA has not provided detailed responses to each of those questions, but instead offers some guidance on over-arching principles that it encourages the NTC and DoITRDCA consider, as well as some limited detailed comments on specific areas.

HVIA guidance on over-arching principles

Whilst automated technologies are developing, they essentially remain within the limited trial phase. The larger public trials overseas are in relatively controlled environments, and the systems being trialled have been extensively trained. As such, the extent of practical experience is low, and the risks that may present themselves via more widespread adoption in Australia remains largely unknown.

In this context, designing a regulatory system for managing safety risks for Australia is difficult. There is a risk that if the legislation is badly constructed it may act as a disincentive. As a result, HVIA urges the NTC and DoITRDCA to consider some over-arching principles.

Obligations appropriate to levels of influence and control

The developed regulations must ensure alignment of risk mitigation obligations/responsibilities, with an individual's level of influence and control. Obligations and responsibilities may fall on multiple parties, each of whom should be required to do whatever is reasonably practicable to ensure

operational safety. This principle underpins the National Road Safety Strategy and is a central tenet of the Chain of Responsibility (CoR) provisions in various national and state road transport laws.

The CoR provisions were first introduced in Australia to recognise the role of many parties in the transport supply chain and prevent heavy vehicles drivers from receiving the 'blame' for outcomes that occurred due to circumstances largely outside of their control.

The automated legislation proposes that an Automated Driving System (ADS) and an Automated Driving System Entity (ADSE) can take the legal place of a driver, and therefore be held responsible for ensuring the safe operation of the vehicle. While this summation may be an oversimplification of the thrust of the reform, a more complete consideration of the other parties is required. In HVIA's view the automated vehicle legislation should aim to have a list of parties similar to the CoR legislation (including a human user).

Regulatory frameworks that support realisation of benefits of new technologies

HVIA urges the NTC and DoITRDCA to create a regulatory framework that supports industry in adopting new technology. HVIA strongly supports the reform's stated objective to:

Minimise unnecessary costs, barriers and burdens that are placed on industry, so that the Australian market is open to automated vehicle technology.

Specifically HVIA considers that the framework should:

- be risk-based, and performance-based
- encourage and reward the adoption of technology that delivers safety, productivity and efficiency improvements
- avoid creating compliance outcomes that are overly burdensome, or financially unfeasible.

HVIA notes specifically that the Heavy Vehicle National Law (HVNL) is widely regarded as overly long, complicated, inefficient, and too prescriptive. Future national laws of similar magnitude, such as the Automated Vehicle Safety Law (AVSL), must expressly avoid repeating its mistakes.

Harmonisation across all levels

HVIA has long advocated for regulatory harmonisation at all levels. HVIA strongly supports the reform's stated objective (below), and notes that it received support from infrastructure and transport ministers at the Federal and State levels in May 2018:

There should be a uniform approach to driving laws for automated vehicles, and this would be achieved by developing a purpose-built national law.

Simply, it must not be possible for individual states and/or territories to derogate from the new national law for automated vehicles in the same way that has occurred with the HVNL. Doing so will create a patchwork of requirements, conditions and rules that will only serve to hamper the freight transport industry's eventual use of the technology.

Similarly, the Australian heavy vehicle fleet comprises a large volume of locally produced vehicles, and models imported from three overseas markets, including Europe, Japan, and North America. Australia's automated vehicle laws must be harmonised with the requirements of those three markets, without disadvantaging any manufacturer from any market.

HVIA specific comments

Fatigue and labour shortages

At this early stage, two of the most attractive uses of automated vehicle technology for heavy vehicles are in the areas of fatigue management, and overcoming the labour (i.e. driver) shortage. The future legislation should readily allow industry to use technology to deliver improved fatigue outcomes and overcome challenges, as opposed to creating new barriers or limiting the benefit to an unattractive level. Some of this relates specifically to the complex issues raised in the *'Human user or occupant obligations when using a vehicle with an ADS'* paper.

Avoidance of overlap between legislation

HVIA understands that there is currently no proposal to differentiate legal requirements for automated vehicles based on vehicle size or mass. Heavy vehicles are already far more stringently regulated than all other vehicles. As such, HVIA urges the NTC and DoITRDCA to carefully consider possible interaction between the future AVSL and the HVNL. While HVIA advocates for adoption of CoR principles in the AVSL, it notes that some desired principles of the future AVSL may already be present in some form in the HVNL, and duplication must be avoided where possible.

Heavy trailers as a unique feature of heavy vehicle combinations

HVIA encourages the NTC and DoITRDCA to give consideration to any future safety or operational requirements for trailers towed by automated heavy vehicles. Whilst trailers can be towed by almost all vehicle types, the mass ratios are much greater for heavy vehicle combinations, and the performance of the trailer naturally becomes a greater influence on the overall performance of a heavy vehicle combination.

HVIA is not suggesting that a more stringent set of requirements automatically apply to heavy trailers, but rather encourages that thought be given at this early stage, to prevent late additions and surprises in the future.

Separately, HVIA notes that some automated driving systems for heavy vehicles may require (by design) a minimum level of trailer equipment to operate (e.g. an advanced braking system, a tyre pressure monitoring system).

Service and maintenance of ADS systems

The Australian heavy vehicle industry features hundreds of service providers, currently providing regular maintenance and repair services, as well as modification services, encompassing engineering design and certification. Each of those businesses may be impacted by the requirements and conditions of the future AVSL regarding repair and modification.

Without limiting the rights or interests of any party, the law must aim to strike a balance that delivers safe outcomes and simultaneously ensures a free and fair market. In the case of repairs and modifications to ADS, this may be complex. In the USA, 'right to repair' arguments have been made to require vehicle manufacturers to provide detailed repair information to owners and operators.

HVIA does not have an answer on the right balance between the interests of the various parties but believes that the answers should be reflected in the CoR discussion. HVIA is happy to facilitate further discussions on these issues with industry.