



# **National Transport Commission – Rail Safety National Law**

## *Consultation Regulatory Impact Analysis*

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## Introduction

I am a Lecturer in Employment Relations at the University of Western Australia with expertise in the processes and regulation of work reorganisation. My most recent research is focused on the social processes of workplace technological change and their implications for productivity and worker wellbeing. This has included working closely with industry stakeholders examining the social processes of technological change including the Australian Rail, Tram and Bus Union.

My research has been published in leading Australian and international peer-reviewed journals, including the British Journal of Industrial Relations; Work, Employment and Society; Labour and Industry; and Sociological Review. Additionally, I have made contributions to public policy reports in Australia and Canada, academic book chapters, and other publications.

Below, I provide my responses to some of the policy options as set out in the Consultation Regulatory Impact Analysis. I have not responded to all the recommendations and my answers are focused on areas where I possess a particular expertise or would like to raise specific concerns or suggestions. I would also welcome the opportunity to provide further feedback or advice on the review if the committee feels this would be of value.

## RSNL Review Recommendations

### Interoperability Options

#### Recommendation 1:

Strengthen the link between safety and productivity in the RSNL

Preferred Option: *Option 1: Ministerial statement, Statement of Expectations.*

There is a broad recognition among policy makers, researchers, and industry stakeholders that productivity is a key driver of growth, competitiveness and living standards. This is reflected in the Federal Government's intense focus on improving productivity across the Australian economy.<sup>1</sup> However, while there is strong agreement on the importance of productivity for the health of the economy, no such consensus exists on the sources and measurement of productivity, and consequently on the appropriate policy settings that might support improved economic performance in sustainable ways.<sup>2</sup>

This ambiguity is reflected in the *Consultation Regulatory Impact Analysis* which mentions productivity dozens of times, sometimes alongside (or even interchangeably with) the term efficiency, without definition or outlining how productivity might be measured. Measuring productivity in the rail sector is difficult because outputs are multidimensional: passenger services, freight volumes, punctuality, safety, and network coverage cannot be easily reduced to a single metric without losing important trade-offs.

Given these difficulties, linking safety and productivity as objectives to be 'balanced' risks normalising trade-offs that can undermine safety outcomes, especially in complex, high-risk systems where small compromises can have catastrophic consequences. In sectors like rail, treating safety as an equal priority to productivity can encourage work intensification, corner-cutting, and underreporting of hazards, ultimately undermining both worker wellbeing and long-term system reliability.

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<sup>1</sup> See: Australian Broadcasting Corporation (ABC) 2026, *May federal budget to focus on lifting speed limit on economy*, 8 February, viewed 30 April 2026, <https://www.abc.net.au/news/2026-02-08/may-federal-budget-to-focus-on-lifting-speed-limit-on-economy/105435282>

<sup>2</sup> Greene et al. 2012. *Understanding Productivity Australia's Choice*. McKell Institute. Available at: <https://mckellinstitute.org.au/research/reports/understanding-productivity/>

My own recent research has demonstrated that productivity outcomes are highly contingent on workplace dynamics, and that excluding workers and their unions from consultation and decision making processes can significantly impede productivity improvements.<sup>3</sup> This means that any initiative to improve productivity should involve meaningful ongoing consultation with workers and unions.

Taken together, these considerations suggest that any attempt to strike a ‘balance’ between productivity and safety, as the report suggests, should be approached with caution. As the report notes, any effort to legislate a balance between safety and productivity would diminish the RSNL’s primary purpose as a safety legislation. For this reason, I support Option 1, the ‘non-regulatory and collaborative approach’.

In this sense, a ministerial statement directing the regulator to report annually on initiatives to improve rail productivity through harmonisation as part of its safety and productivity improvement plan is most appropriate. However, this directive should include provisions to consult with workers and their representatives around productivity initiatives and emphasise that the primary purpose of the RSNL remains as safety legislation.

#### Recommendation 2:

Give the Regulator an explicit role to coordinate and/or facilitate (and powers to do so if needed) delivery of such safety and productivity benefits

Preferred Option: Option 1: *A ministerial statement directing the Regulator to undertake a coordination or facilitation role to deliver safety and productivity benefits.*

The aim of improving safety and productivity ‘through interoperability and harmonisation’ is a commendable objective. However, any effort to achieve this objective by empowering the Regulator without further clarity around how and at what level productivity is to be measured should be approached with caution. Here, productivity ought to be considered as a national policy priority through coordinated investment and industry policy, and not something enforced at the workplace level which may give rise to safety concerns.

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<sup>3</sup> Nicholson, D.2026. “Implementing Automation: The Shopfloor Politics of Technological Change in the Canadian Aerospace Sector.” *British Journal of Industrial Relations*. <https://doi.org/10.1111/bjir.70058>

Furthermore, if the Regulator is to be granted coordination capabilities to achieve productivity and safety outcomes through interoperability and harmonisation, this should be coupled with an express commitment to working collaboratively with other industry stakeholders including RIMs, RSOs, RTOs, workers and their union representatives.

**Recommendation 3:**

Mandating of requirements to achieve specified interoperability outcomes

Preferred Option: *Option 2: Add interoperability as a sub-part to the RSNL general safety duty that applies to RTOs*

Interoperability has the potential to deliver significant productivity and safety benefits across the rail sector. Adding interoperability as a sub-part of the of the RSNL general safety duty that applies to RTOs including a mandatory duty to comply with standards as approved by the relevant ministers is thus supported. This approach allows for a level of flexibility while legally recognising interoperability obligations.

It is worth reiterating, however, that delivering interoperability—and the full productivity and safety benefits it promises—requires ongoing, institutionalised consultation between key stakeholders including RIMs, RSOs, RTOs, workers and their union representatives.

**Recommendation 16:**

Interoperability should be listed as a new object in the RSNL

Preferred Option: *Option 2: Amend the RSNL to include interoperability as a secondary object*

Recognising interoperability in the RSNL recognises its central importance without changing the law's central safety focus. It is important, however, that any change acknowledges that interoperability goes beyond physical artefacts, infrastructure and network management technologies. For the productivity and safety benefits of interoperability to be realised requires more wholistic approach. This should include the national recognition of worker skills and competencies, and the harmonisation of training packages to ensure workers can operate seamlessly across networks.

**Recommendation 18:**

Compel RIMs to consider implications to their own and adjacent networks.

*Preferred Option: Option 2: Amend the table of prescribed conditions and restrictions in the regulations of the RSNL to require notification of change to rail infrastructure and rolling stock, and have regard to the overall network as a national system.*

Promoting transparency is key to promoting both safety and productivity outcomes. Requiring notification of changes to rolling stock and rail infrastructure to industry stakeholders can help promote a more integrated transport network. For this reason option 2 is supported.

Recommendation 19:

Presumption of mutual recognition for approved technologies.

*Preferred Option: Not Recommended.*

Several recent studies have demonstrated that comparable technologies can have widely varying impacts on different workplaces based on varying local factors. How new technologies are likely to impact a workplace cannot be easily predicted based on how they have been implemented elsewhere. This body of research emphasises that comparable artefacts and digital systems can be significantly ‘reconstituted’ at the level of the workplaces.<sup>4</sup> In other words, the same technology can mean significantly different things for different workplaces.

In this context, the wording contained in the current recommendation is highly ambiguous. It suggests that only “differences” between technologies ought to be tested in new contexts. However, given what we know about the reconstitution of technologies in different workplaces, the differences between technologies cannot be objectively assessed prior to their implementation in specific workplaces.

Central to realising both safety and efficiency outcomes from any particular technological change is the process of implementation. Once again, recent academic research has demonstrated that realising the best possible outcomes from any change requires meaningful consultation with workers and their representatives. As currently

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<sup>4</sup> Nicholson, D.2026. “Implementing Automation: The Shopfloor Politics of Technological Change in the Canadian Aerospace Sector.” *British Journal of Industrial Relations*. <https://doi.org/10.1111/bjir.70058>; Dupuis, M., I.Greer, and D.Park. 2026. “Striking for a Just Transition? North American Auto Unions and the Electric Vehicle Transition.” *Industrial Relations: A Journal of Economy and Society*1–18. <https://doi.org/10.1111/irel.70024>.

outlined, the recommendation risks undermining worker voice in the processes of technological change and for this reason is not supported.

Recommendation 20:

Establish a national set of competencies that would be recognised by all RTOs.

Preferred Option: Option 2: *Rec 20 (a-d) Pursue regulatory amendment to ensure transferrable skillsets are recognised and reduce existing potential for variance across jurisdictions by: strengthening the requirement to issue qualifications and units of competency where they exist, requiring the use of a national competency management register (containing competency information including inputs from competency management systems where they currently exist).*

*Rec 20(e) Include mechanism for driving adoption of harmonised national safe working rules as part of tier 2 standards, rules and processes*

*Rec 20(f) Include national rail roles in the RSNL (eg encompassing roles such as train driver, train controller, signalling engineer as well as a range of maintenance roles).*

Interoperability is not only an issue relating to rail infrastructure and rolling stock but also relating to workers' skills and competencies. Competence of workers must be assessed against the relevant competencies under the Australian Qualifications Framework. This provides a foundation for a system of national training and recognition but requires changes to meet these objectives. Option 2 can underpin a system which would recognise consistent training packages nationally.

Importantly, this amendment must support workers' in their efforts to develop nationally recognised, transferable skills. Giving workers autonomy over their skills in this way enables them to move between employers without needing to retrain, and reduces skills shortages by allowing workers to employers where their skills are in demand.

It is essential that the National Register is held by an independent government entity to ensure data security and transparency—it should not be entrusted to an industry body.

## Institutional Governance Reform Options

### Skills and Competency Oversight

Preferred option: *Including a requirement in the RSNL for the use of a national competency register.*

Harmonising skills is an essential part of achieving interoperability in the rail sector across the country. Requiring operators to use National Competency Register will enable this harmonisation and thus Option 2 is supported.

To ensure transparency and data security, this Register should be managed by an independent government entity, not an industry body.

## Transparency and Accountability Options

### Recommendation 4:

The consultation provisions in the RSNL to be strengthened

*Preferred option: Option 2: Amend the RSNL to strengthen consultation requirements noting that any amendments will need to reflect the recent Supreme Court of NSW decision<sup>8</sup> to align with and uphold the established case law. This may require demonstrating the quality of existing consultation requirements, rather than adding additional requirements.*

Meaningful consultation with workers and their representatives is essential to optimising both safety and efficiency outcomes. Amending the law to outline what meaningful consultation is and explicate the processes involved in genuine consultation, can bring the law in line with Work Health and Safety Act (WHS) and provide a strong and more mature framework for workplace consultation.

### Recommendation 6:

Establish a positive obligation in the RSNL to ensure rail safety workers have access to aspects of a RTO's SMS.

*Preferred Option: Option 2: Amend the RSNL to include a positive obligation on RTOs to demonstrate that all rail safety workers (employees and contractors) are competent in the carrying out of rail safety work*

*For instance, section 52 - Duties of Rail Transport Operators.*

The establishment of a positive duty to demonstrate rail safety workers are competent in the carrying out of rail safety work—as per option 2—would help give effect to, and ensure compliance with, meaningful consultation.

### Recommendation 11:

The confidentiality provisions in the RSNL be reviewed.

*Option 2: Amend the RSNL confidentiality provisions to allow information sharing between the Regulator and industry. Where there is a safety benefit, give ONRSR the*

*power to share information. Note the intention is to allow the Regulator to share information as appropriate, and not introduce a broad proactive obligation.*

Workplace safety is the responsibility of every stakeholder. However, to participate in building and maintaining safe workplace stakeholders requires transparency and access to relevant information. In short, timely and transparent sharing of information following safety incidents is critical to risk mitigation and supports continuous safety improvements across the network. The current arrangements do not allow for this kind of data sharing. For this reason, amending the law to stipulate data sharing on safety issues (including the scope of information sharing and timelines for making information available) is supported (Option 2).