FCAI Written Submission in Response to Regulation Impact Statement – Developing Technology – Neutral Road Rules for Driver Distraction

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EXECUTIVE SUMMARY

The Federal Chamber of Automotive Industries (FCAI) is the peak industry organisation representing the importers of passenger vehicles, light commercial vehicles and motorcycles in Australia. The FCAI welcomes the opportunity to comment on the National Transport Commission's (NCT) Consultation Regulation Impact Statement (RIS), Developing Technology–Neutral Road Rules for Driver Distraction.

The NTC RIS states that the Australian Road Rules related to driver distraction are quickly becoming outdated.

The direction from Transport and Infrastructure Council Ministers is to provide a technology-neutral solution.

Previously, the NTC has reviewed the Australian Road Rules related to Driver Distraction, identified factors associated with distraction and sought evidence and understanding for key issues.

This RIS seeks to compare a range of options and assess the impacts on policy changes to industry, Governments and the community; methodology to measure the impacts; and conclusions on the preferred solution to the problem.

The FCAI supports the NTC's approach to review the current road rules with the objective to develop technology-neutral road rules for driver distraction.

Driver distraction is not new. Driving is a complex task that requires constant attention and coordination between mind and body. It is very easy for a driver to become distracted. Passengers, mobile phones, infotainment systems and roadside advertising can all distract drivers' attention from the task of driving. Drivers have a responsibility to ignore distractions and give driving their full attention at all times. To anticipate and avoid hazards on the road, drivers must concentrate on driving.

PRESCRIPTIVE OPTION – NOT TECHNOLOGY NEUTRAL

FCAI does not support the prescriptive option as it is not technology neutral. The prescriptive option allows smartphones and tablets, portable computers, and smart watches but is silent on current / future technology such as holographic displays, heads up displays, gesture recognition, augmented reality, and other future technologies that car manufacturers are already undertaking research and development [R&D], with a view to bringing to market.

A prescriptive list will always be behind evolving technology and not necessarily take into account special cases that should be allowed,

- This option forbids any other function on a smart watch, potentially making it illegal to use the watch to read the time or turn off an alarm.
- This option also forbids any other function on a computer, potentially making enhanced vehicle instrumentation illegal.
- It is not clear if the prescriptive option allows Radio Data Transmission [RDS] displays on radios.
- The prescriptive option forbids the display of pictures, potentially making the display of album art for MP3 music or manufacturers' logos and menu background screens illegal.
- It is unclear whether a GPS unit displaying a map would be allowed. Map display is essential for closely spaced turns, traffic information and forward planning of lane selection.
- It is not clear if tapping a GPS unit is allowed e.g. to accept an alternate route around a traffic jam.

Modern vehicle interfaces already restrict many functions when the vehicle is moving. These restrictions are based on sound research and driver workload testing and will evolve to cater for new technologies. Vehicle based restrictions departing too far from international best practice are likely to reduce safety by encouraging drivers to use their portable devices rather than the vehicle interface, which is designed to minimise distraction.

PERFORMANCE OPTION

Under this option only an observable display of erratic behaviour would draw notice from authorities. Enforcement based on lateral control (poor lane keeping) and longitudinal control (poor speed management) would be difficult to enforce and interpretations may vary by jurisdiction and enforcement personnel. The likelihood of enforcement officers being able to accurately determine an "eyes off road" occurrence of more than two seconds is extremely low.

HYBRID OPTION

The interactions listed in clause 7.1.1 describe the behaviour independently of the technology and provide good independent guidelines to address causes and minimise consequences.

Care must be taken in the wording to avoid preventing the use of a watch to tell the time, a phone to open the garage door, the display of simple pictures such as album art, company logos and menu backgrounds, dash cameras, extended vehicle instrumentation, and the selection of simple text via a menu button (e.g. yes/no).

The inclusion of a prescriptive table such as Table 6 should be avoided as it is not technology neutral and suffers the same limitations as the Prescriptive Option

ROAD RULE 299

Road rule 299 has not kept pace with technology changes. Revisions are needed so that technology eg: Rear seat DVD players, cannot be interpreted as distracting other drivers. Rear seat DVD players can increase vehicle safety by potentially reducing distraction due to children.

MUARC research shows children account for up to 12 per cent of driver distraction[i,ii].

This part of road rule 299 was put in place to prevent moving advertisements on taxis and the rule needs to be reworded to show this intention.

VEHICLE TECHNOLOGY

It must be recognised that both regulatory (e.g. ADRs) and non-regulatory (e.g. ANCAP) approaches are encouraging fitting of Advanced Driver Assistance Systems (ADAS), such as autonomous emergency braking (AEB). In addition, OEMs are developing and deploying other driver warning systems (e.g. adaptive cruise control, following distance warning, blind spot monitoring) that are intended to attract the attention of the driver.

An effective driver distraction mitigation approach would be to follow the European General Safety Regulation proposal to mandate distraction detection in vehicles. This would detect eyes off road time and warn the driver to look back at the road, a true performance-based approach reducing the need for prescriptive rules.

A technology-neutral approach to road rules is important to ensure the use of advanced driver assistance systems (ADAS) or emerging connected and automated vehicle (CAV) systems that will provide significant safety and operational benefits for drivers is not prevented within the Australian market.

VEHICLE MANUFACTURER GUIDELINES

Whilst the driver must remain responsible for the operation of the vehicle, vehicle manufacturers recognise their responsibility to provide systems that will operate and provide the correct information to the driver at the appropriate time to assist the driver to make decisions. All vehicle brands undertake extensive development programs prior to introduction of new technology to the market to minimize distraction and to ensure that the signals from the system are delivered to the driver at the correct time and in the necessary priority order to allow the driver to undertake any necessary corrective action.

Vehicle designers recognise the importance of supporting a driver to keep their eyes on the road and driving environment including monitoring of in-vehicle displays and operating the vehicle controls. With the introduction of both integrated and portable (nomadic) systems, the automotive industry and government agencies around the world have responded to concerns on driver distraction with guidelines covering the visual-manual driver vehicle interface associated with both vehicle integrated systems and docked (or tethered) portable (nomadic) devices.

The appropriate integration of a portable electronic device into vehicle systems enables the vehicle to manage access to these devices in a manner appropriate for the driving environment. If guidelines for portable electronic devices are not implemented simultaneously with those for integrated systems, the risk is that drivers will continue to use portable electronic devices they carry into cars which have not been engineered for use in the driving environment, leading to an increase in the risk of driver distractions.

Most vehicle manufacturers have developed systems to automatically pair (i.e. wirelessly tether) portable (nomadic) devices (e.g. smart phones) to the vehicle integrated system. This allows the in-vehicle integrated system to utilise the vehicle's controls to manage the content and presentation of information from both the vehicle and portal device to the driver in accordance with established industry guidelines.

The international association of vehicle manufacturers (OICA) has developed a recommended policy position on driver distraction in 2015 (copy attached). This paper also includes a list of the current guidelines that exist in Japan, Europe and the USA; although the preferred option is to follow the OICA practice.

- Japan: Japan Automobile Manufacturers Association (JAMA) Guideline for In-vehicle Display Systems – Version 3.0
- Europe: Commission of the European Communities, Commission Recommendation on Safe and Efficient In-vehicle Information and Communication Systems; Update of the European Statement of Principles on Human Machine Interface
- United Sates: Alliance of Automotive Manufacturers Statement of Principles, Criteria and Verification Procedures on Driver Interactions with Advanced In-vehicle Information and Communication Systems

OICA-Position-Pape
r-Driver-Distraction-

[1] Charlton, Koppel et al; 2007; Are Children More Distracting Than Technology? Using Naturalistic Data to Explore Rear Seat Child Occupants as a Source of Driver Distraction.
[1] Regan, Lee, and Young; Driver Distraction: Theory, Effects and Mitigation ISBN-13: 978-0-8493-7426-5; pp 286-287 Virginia Commonwealth University Study

QUESTIONS TO STAKEHOLDERS:

1. **What other factors should be considered in the problem statement?**

   FCAI response:
   Factors considered in the problem statement are suitably comprehensive except in the case of integrated vehicle visual display units (VDUs). For this case, most brands have lock out functions that disable certain actions whilst the vehicle is moving forward.e.g: address setting, keypad dialling etc.

   Therefore, the focus should be targeted at those distractions involving the use of smart tablets and mobile phone usage *that are not integrated into the vehicle*.

2. **Has the consultation RIS provided enough evidence to support the case for government intervention? What else should be considered and why?**

   FCAI response:
   Government intervention in the form of enforcement is warranted around the use of mobile devices whilst in the act of driving; i.e: those that have a direct negative impact on driving performance. However, there are global guidelines already available relating to integrated systems that should be adopted within Australia e.g: OICA paper attached.

3. **Are there issues relevant to developing technology-neutral road rules for driver distraction not covered by the process for addressing this problem?**

   FCAI response:
   We do not support an approach to create unique road rules that are not associated with global trends or regulations. Harmonisation with Europe regulation and /or guidelines is the most preferred way forward. If the above option was adopted, the only deterrent would be enforcement, as there doesn't seem to be an appetite to adopt an educational process that could support a change in driver behaviour.

4. **Can you provide evidence that would support a different treatment for cyclist distraction?**

   FCAI response:
   No. Cyclists should be treated in the same way. Pedestrians should also have the same criteria applied, even if not under this paper's jurisdiction.

5. **Do the proposed examples for control reduce the uncertainty about compliance with the offence in road rule 297(1)? What other elements do you think could be incorporated?**

   FCAI response:
   No, all drivers should understand their responsibilities when they are in the act of driving a vehicle. The area of uncertainty pertains to education versus enforcement. This approach appears to be entirely directed to enforcement following some form of observation of the vehicle dynamics.

   Being distracted by any means, [mostly mobile devices] is a societal problem not addressed by simply changing the rules.

   The criteria of eyes off road / hands off wheel etc are applicable to human drivers only and therefore proposing a road rule change that will not be applicable to CAVs is sending mixed messages.

6. **Are the four options clearly described? If not, please describe the areas that may be missing.**

   FCAI response:
   Yes. All options are clearly described.

7. **Is the status quo option an accurate representation of the current state of the Australian Road Rules in relation to driver distraction? If not, please describe further.**

   FCAI response:
   The Status Quo option intention is well described, however as there are numerous interpretations by State and Territories that are inconsistent, confusion for the driver / user remains.

8. **Are there any high-risk distracting behaviours and interactions that have not been addressed by the proposed new offences?**

   FCAI response:
   In general, the driver behaviours indicated under the Prescriptive option have been covered. The ability for Enforcement to detect whether a touch screen is being used correctly or a driver seen to be speaking (unknown if on a hands-free call or giving voice-controlled direction) remains a struggle.

   This method does however give greater support to using “allowable” integrated technology and removes ad-hoc usage of mobile devices.

   Hence, an improvement in the rate of accidents due to distraction would be expected.

9. **Can you propose an alternative approach for discouraging long eyeglances off the roadway that is enforceable in practice?**

   FCAI response:
   The most effective method to deter long eye glances away from the road is to install in vehicle monitoring such as eyesight or fatigue detection systems. As discussed at the recent seminar in Brisbane, the technology can be deployed but due to the vehicle fleet turnover rate (approximately one million new vehicles / year), it would take around 10 years to have a 50 per cent effect – assuming a compulsory fitment rate.

10. **Can you propose an alternative approach for discouraging high-risk voice-based interactions that are enforceable in practice?**

    FCAI response:
    No.

11. **Would a fully outcomes-based approach effectively mitigate the safety risks from diverse sources of distraction?**

    FCAI response:
    There are benefits from this approach that would not inhibit expanding technology by the brands into their vehicles.

12. **Does the proposed combination of prescriptive and performance-based components in the hybrid option sufficiently address all the sources of distraction that can significantly reduce driver performance? If not, please elaborate.**

FCAI response:
Yes, however, as with option two, it is overly prescriptive in its application.

Therefore, the hybrid option would need continual update to maintain pace with vehicle integrated technology efforts.

13. **Do you agree with the impact categories and assessment criteria? If not, what additional impact categories or assessment criteria should be included?**

FCAI response:
Yes. The RIS reads as though the data has been acquired from well documented references on the subject of driver distraction**.**

14. **Does our analysis accurately assess the road safety benefits for each reform option? Please provide any further information or data that may help to clearly describe or quantify the road safety benefits.**

FCAI response:
There is no argument that there will be quantifiable benefits by controlling the use of mobile devices whilst driving. However, there is little documented evidence defining the severity of distraction with respect to accidents in Australia particularly whilst using a mobile device.

15. **Has the consultation RIS captured the relevant individuals or groups that may be significantly affected by each of the options? Who else would you include & why?**

FCAI response:
Yes.

16. **Has the consultation RIS used an appropriate analytical method for assessing the benefits and costs of the options? What else should be considered?**

FCAI response:
Costs related to fatalities will reduce as accidents are prevented; however as with the adoption of other technologies / measures, e.g: automated vehicles, the associated level of injuries is likely to initially increase before it stabilises. The method of assessing costs looks to be appropriate but whether the proportions are correct will need to be determined later.

CONCLUSION

The FCAI supports the NTC's approach to review the current road rules with the objective to develop technology-neutral road rules for driver distraction and encourages the NTC to base any regulation on sound research and the difference between the use of portable (nomadic) devices and in-vehicle systems.

The FCAI does not support the inclusion of prescriptive tables listing devices and their use and these will quickly become out of date as new technology is introduced to the market.

The NTC also needs to be aware that the automotive industry globally is introducing new systems to benefit the driver and to manage driver distraction and access to portable devices in a manner appropriate for the driving environment.

As the Australian market is only one to two per cent of global sales, overly prescriptive rules would also be detrimental to technology deployment. Therefore, we again recommend to follow the harmonization process and adopt similar guidelines as have been applied overseas.

Kind regards

Wayne Carpenter

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