

Mailing Address:
GPO Box 1555
Canberra ACT 2601

Address:
103 Northbourne Ave
Canberra ACT 2601

P 02 6247 7311
T @aaacomms
W www.aaa.asn.au

Mr Luis Gutierrez
Productivity and Safety
National Transport Commission
Level 3, 600 Bourke Street
MELBOURNE VIC 3000

13 September 2019

MEMBER OF



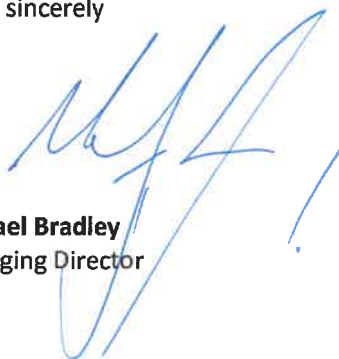
Dear Mr Gutierrez,

**Public submission – *Developing technology-neutral road rules for driver distraction*
consultation regulation impact statement**

Please find enclosed a submission from the Australian Automobile Association (AAA) to the National Transport Commission *Developing technology-neutral road rules for driver distraction* consultation regulation impact statement.

If you have any questions, please contact AAA Senior Policy Adviser, Ms Josephine Wilkins on ph: 02 6261 4404 or josephine.wilkins@aaa.asn.au

Yours sincerely



Michael Bradley
Managing Director



AAA Submission to NTC Regulation Impact Statement
Developing technology-neutral road rules for driver distraction

The Australian Automobile Association (AAA) welcomes the opportunity to respond to the National Transport Commission (NTC) *Developing technology-neutral road rules for driver distraction* consultation regulation impact statement (the Consultation RIS).

The AAA is the peak organisation representing Australia's motoring clubs and their eight million members. The AAA and its constituent clubs are strong advocates for road safety and are committed to reducing trauma on Australia's roads.

The AAA is very supportive of the move to review and update the Australian Road Rules with respect to driver distraction. Current road rules relating to driver distraction do not clearly identify the distracting behaviours that affect driving performance and have not kept pace with technological development. Further, slight variations in rules between states and territories leads to further confusion for drivers/riders, which can be further detrimental to driver's compliance with the rules.

This project is an important opportunity to provide clarity to drivers/riders as well as enforcement agencies around what compliance looks like. It is also an opportunity to achieve greater consistency across state and territory laws and to avoid variations between jurisdictions. Education around the resulting law changes will also be vital to achieving awareness and understanding of the behaviours allowed and not allowed, thus enhancing the likelihood of compliance by drivers/riders.

The AAA supports the proposed hybrid approach of regulation put forward by the NTC as the best option to achieve effective implementation of new driver distraction rules.

Question 1: What other factors should be considered in the problem statement?

The AAA believes the problem statement provides a good overview of the relative risk of distracted driving, the deficiencies of current laws, and the complexities in regulating this behaviour as well as the challenges in changing behaviour.

The AAA notes that the Australian Road Rules 13th Amendment Package currently out for consultation proposes to clarify the Rules so as to permit the use of a mobile phone, television receiver or visual display in a motor vehicle that is stopped out of the line of traffic in a place permitted by the Rules, even though the key may be in the ignition or the engine is running. The AAA is supportive of the amendments suggested in clauses 27 and 28 of the 13th Amendment Package and believe they will help clarify existing ambiguity around how different states interpret this Rule. The main requirement is for the driver to prevent the vehicle from inadvertently moving before using a mobile phone or other disruptive element. The AAA believes that the ability to leave the engine running is important to enable drivers to effectively regulate the internal temperature of a vehicle while stationary.

The AAA agrees that “driver distraction is not as well understood as other risk factors.” This is partly due to a lack of good data in relation to the cause of road crashes. It is often difficult for authorities to ascertain whether crashes have involved driver distraction and what type of distraction occurred, and this leads to inconsistencies in data and reporting. It is therefore difficult to get an accurate picture of the impact of distraction on our roads.

The AAA is currently undertaking research projects into a) distraction of drivers from smartphones; and b) the distractibility of the human-machine interface in vehicles. These projects are still underway and the AAA is not yet in a position to share the research findings, however we can say that preliminary research findings of the smartphone project support many of the statements laid out in the Consultation RIS problem statement. We would be pleased to share the output of these projects once they are completed later this year.

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

The Consultation RIS puts forward a strong case for government to review and update driver distraction laws. The AAA has nothing further to add.

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

The AAA acknowledges the scope of this project is to look at *unsafe behaviours and interactions* that result in detrimental driving performance and therefore believes for the purpose of this project, the NTC has covered relevant issues. However, we do note there are additional levers for addressing driver distraction available to the government that could complement changes to the Australian Road Rules.

The AAA believes uniform adoption by states and territories of the Australian Road Rules relating to driver distraction will be an important step in clarifying rules and limiting driver/rider confusion. Public education around rule changes will also be critical to driver/rider awareness of the rules and the likelihood of compliance.

Another lever available to the Australian government through which to address driver distraction is through the design of vehicles, in particular a vehicle’s human-machine interface. With vehicle manufacturers offering new integrated infotainment systems such as Apple CarPlay and Android Auto, it is important for motorists to understand that just because a particular in-car technology is offered, does not necessarily mean all interactions with it will be safe or permitted under the Australian Road Rules whilst driving. Further, Australian vehicle design rules can be used to regulate the specification of the interface and reduce distractibility, for example through features such as ‘head up display’.

Question 4: Can you provide evidence that would support a different treatment for cyclist distraction?

The AAA is supportive of the NTC's approach that the options in the Consultation RIS should apply to drivers and cyclists.

The AAA understands the NTC's position that it would be impractical to broaden the scope of this project to encompass rules relating to pedestrians, however it acknowledges that pedestrian distraction is also a growing concern. The AAA would support further investigation and research being conducted on the best mechanisms to mitigate risks and behaviour around pedestrian distraction.

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

The AAA believes an important aspect of new distraction rules is clarifying the meaning of 'proper control', to provide some guidance to drivers/riders and enforcement agencies around what compliance looks like and in turn increase the likelihood of drivers adopting sound behaviours.

The Consultation RIS outlines broad headings which will define 'proper control'. While this is an improvement on the status quo, further guidance should be given to the specific tasks included under these headings to give drivers and police adequate direction around acceptable compliance.

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

The AAA believes the four options have been clearly described.

Question 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.

Yes.

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

The AAA believes the proposed new offences adequately cover high-risk distracting behaviours that are able to be observed – which is critical to the ability to enforce these offences. Providing a list of prohibited behaviours provides a much higher degree of clarity and certainty for drivers/riders than what is the case with the status quo position.

It is important to note that there are other kinds of distraction that can take place whilst driving, including cognitive and audio distraction. These distractions are extremely difficult to witness or identify, however still present danger to road users. This is why the AAA believes it is important to couple the prescriptive offences, with the requirement for drivers/riders to have 'proper control' of the vehicle, as set out in the hybrid model. This will allow for the enforcement of a range of distracting behaviours that result in a loss of 'proper control', that aren't specified in the purely prescriptive model.

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

As mentioned previously in this submission, vehicle design and particularly the human-machine interface can significantly contribute to the distractibility of vehicles. Options for limiting distraction as part of the Australian vehicle design rules should be considered. Opportunities to work with technology manufacturers should also be considered, to promote technologies that minimise distraction. For example, restricting the use of certain technologies whilst the vehicle is in motion, or incentivising drivers to self-regulate their behaviour.

Question 10: Can you propose an alternative approach for discouraging high-risk voicebased interactions that is enforceable in practice?

The AAA has nothing to add in relation to this question.

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

The AAA is not supportive of a fully outcomes-based approach as this option would not provide enough clarity for drivers/riders on compliance with the law and what behaviours are and are not acceptable.

Question 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

The AAA is supportive of the hybrid model as the best option to achieve effective implementation of new driver distraction rules. The hybrid model offers sufficient prescriptive detail to enable drivers to understand what compliance looks like, while providing the flexibility of the performance-based approach which encompasses broader distracting behaviours and ensure the rules remain relevant through new advancements in technology.

It creates new offences seeking to deter high-risk behaviours and interactions regardless of the technology involved or the source of the distraction. It also incorporates a definition of 'proper control' which encompasses both the observable causes and consequences of behaviours and interactions that can impair a driver's control of a vehicle. This will require the judgement of law enforcement officers to determine a driver/rider's compliance.

The hybrid model overcomes the limitations of a purely prescriptive model, which is a lack of flexibility and potential to become outdated with the introduction of new technologies. The hybrid model provides guidance on what it means to have 'proper control' of a vehicle, which will enable enforcement of distracting behaviours that are less observable, but still cause the driver/rider to lose 'proper control' of the vehicle, such as audio and cognitive distraction.

The hybrid model also overcomes the limitations of a purely performance-based model, which on its own lacks clarity and detail. A purely performance-based approach may also be more difficult to enforce, as it requires a driver/rider to have lost 'proper control' of the vehicle.

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

The AAA has nothing to add in relation to this question.

Question 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.

As previously indicated in this submission, a lack of quality data around distraction as a cause of vehicle crashes and resulting trauma, makes it difficult to properly assess the road safety benefits for each reform option.

Question 15: Is the assumption that technology related distraction crashes would be 24 per cent higher in the absence of existing laws plausible? If not, can you provide any evidence that supports a different estimate?

The AAA has nothing to add in relation to this question.

Question 16: 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 and why?

The AAA agrees with the NTC approach that driver distraction laws apply to both passenger vehicles and commercial freight equally. It would not be acceptable to the AAA to compromise safety objectives in order to accommodate commercial operations.

The AAA agrees with the NTC approach to regulate the use of equipment by commercial drivers consistently with other sources of distraction – for example the use of dispatch systems is consistent with the use of mounted mobile phones or GPS systems under proposed laws.

Question 17: Has the consultation RIS used an appropriate analytical method for assessing the benefits and costs of the options? What else should be considered?

The AAA has nothing to add in relation to this question

Question 18: On balance, do you agree that the preferred option best addresses the identified problem? If not, which option do you support?

The AAA believes the hybrid option offers the best opportunity to achieve effective implementation of new driver distraction rules. Importantly, it provides much greater clarity around what behaviours are and are not allowed and what it means to maintain proper control of a vehicle.

The new offences establish a set of principles which can be applied consistently across different technology platforms (eg tapping of screen is allowed, however the input of information into a device is not). It will be a challenge to communicate and educate the public on the differences in these behaviours – what is allowed and what is prohibited. It will therefore be important to ensure the new laws are accompanied by a communication plan, including detailed information such as that set out in Table 6 of the Consultation RIS.

Differentiating between legal and illegal behaviour will also be a challenge for law enforcement and necessarily involve a degree of subjectivity and discretion. However, a strength of the proposed new offences is that the guiding principles are consistent no matter what device a driver/rider is using (eg the rules are the same whether a driver/rider is using a mounted mobile phone or a mounted GPS) – this clarity should enhance the public's understanding of the rules and mean they are more likely to comply.

Consistent application of the Australian Road Rules between jurisdictions will be an important factor in providing certainty for drivers/riders around what compliance looks like. The AAA hopes state and territory governments will adopt the model rules as they are agreed and avoid making changes that will create inconsistencies between jurisdictions.

It is also important that governments consider a range of other levers available to them to address driver distraction. Education of new driver distraction rules will be critical to awareness and compliance of drivers/riders. Vehicle design and the uptake of new technologies are other important considerations. Finally, improved data on distraction as a cause of crashes is vital to gaining a better understanding of the current impact of distraction, as well enabling proper evaluation of the impact of rule changes once adopted.