

Rod Hannifey response to HVNL review issues paper 1.

Q1. The paper outlines the issues well and relatively clearly, however the length of the document will mean many will not read it through. This will mean you may well miss some valuable input from drivers who may not have the time nor the inclination to read 70 pages about a problem they live with everyday.

Q2. It is honestly hard to find anything the current law does well. It is onerous, complicated, punishes drivers for clerical errors that have absolutely nothing to do with road safety and does not allow sufficient flexibility for the job. It has perhaps been designed with the best of intent, that is certainly what we hope, but its delivery, the level of both friction and stress it causes drivers to achieve compliance, could well be deemed to be negative in promoting a safe trip mentality.

Yes there needs to be controls, but some drivers do the same each day and so this is easy for them to manage and to comply and be seen to comply, others do different things daily, are controlled by many differing factors and most of the control of their actions and ability to comply, comes from and is administered by others, who do not have to meet the same compliance levels or issues.

The fact that Police are simply another level of compliance pressure, are not trained nor policed by the NHVR and so can and do "interpret" the law as and when they see fit is an issue. If the law is so prescriptive, then there must be some room for minor human error that again, does not represent a road safety risk as such and this is not the case now. Drivers are then stressed in trying to comply, can be fined a weeks wages for an error, not a deliberate attempt to break the law.

In the USA, road transport inspectors come from the ranks of the Police, but are then specially trained to enforce transport law. True they have a bigger problem with different state laws, but this eliminates the two levels and differing views and understanding of enforcement and how it affects drivers.

It is patently clear the non-aligned states not only believe they provide good and sufficient regulation for safety, many others agree and it could possibly be argued that we should all move to that system, even initially as a step to trial now.

The current way the Police use industry blitzes to shame us in the eyes of the public, yet they are not required to tell the truth and supply all data, only increases the self-perpetuating need for more blitzes and further persecution of all drivers and companies, not just those who should be punished.

I do believe that weight and dimension law needs to remain prescriptive to suit the roads most operate on everyday, but must still allow some flexibility for minor issues, rather than severe penalty for every kilo over when such minor weight differences do not affect safety and or the road itself.

Q3. Yes I support using risk management. Using your example for OSOM loads, the other issue is that other road users have no idea of what is coming at them, without suitable warning vehicles and signage. Unfortunately, we know no one wants to slow down or wait to save their own life and without controls by those shifting the load, this risk is amplified. Normal trucks do not present this risk.

Q4. If the NHVR is to control the regulation and the eventual enforcement of same across Australia, then they should also be involved in the driver licensing standards. These standards should be national, consistent and provide drivers trained for the job, not just given a license and let loose to hopefully learn as they go.

Q5. This should be the ultimate aim and goal of this review.

Q6. Yes I agree, but currently cannot give a suitable answer as to how.

Q7. We will never accept such electronic oversight under the current inflexible and onerous law. A driver can be compliant every minute of every day and with then one error, be fined a weeks wages. There is no recognition of good behaviour or record with each subsequent offence, however minor, being deemed as a safety threat. No electronic control can monitor work time over driving time. There must be a better definition of what is work. WA regs recognize getting out of your truck and walking round checking the tyres etc, as a break in activity, where the HVNL states say this is work.

Q8. This answer lies in every comment above. The one further point is that fatigue, its impacts and how it can be addressed are very much impacted by the job and in the control of outside parties for those who do not do the same job everyday. They do not have the problem of being held up and used as free labour and or storage, trying to find somewhere to park, eat, shower and sleep when such facilities are few and far between. They are not given the flexibility to do this now.

I have had more than one driver tell me, they have driven for years without a crash, by driving when fit and sleeping when tired, not by complying with a logbook and being told by someone else, when to do these things. They say they have never struggled so hard to be both compliant and safe. Safe-t-cam and the National camera network, unless suitable flexibility is included, will only exacerbate this problem. We have driven many excellent drivers out of the industry due to the overzealous and heavy financial punishments.

Q9. Initially, adopting the WA rules may provide a pathway. This could be done far more quickly and easily and with it being more OH and S based, not too great a leap. However the argument against that is it then still only a stopgap, rather than a complete review. It is argued by many drivers now, that the current law and penalties put us into a tighter and smaller box, with more difficulty to comply and be safe, yet more likelihood to get fined. The level of compliance stress is I believe, completely unrecognized by anyone else.

Q10. There is no doubt in my mind that the current penalties are a deterrent, but my concern is that it is all stick, no carrot and that those who design, police and implement the current law, do not have to live by it and that there can be major penalties and costs for minor and non-safety related breaches. Recently I overlapped a half hour in 24 hours. I did not aim to and also had a 7 hour break within this period. The police officer ignored the stamp in my book by RMS 2 days after the event and I will attach my thoughts for the judge. I wrote this to take with me and got to point 3 before the judge dismissed the offence. I was asked did I want to plead guilty or not guilty and said I wanted the ticket withdrawn, as the law was ambiguous.

1. The alleged offense on the 26th November 2019 was not intentional. I did not drive 14 plus hours straight. I overlapped a half hour. It can be difficult to remember every period driven and your breaks and to do so, you must then continually go back and forth in your logbook. Having had a 7 hour break the night before, had things gone as normal, I would have been later getting out of Melbourne and then been legal. It is unusual to get out of Melbourne early and as I went in empty and was lucky to get loaded straight away, I thought, this is good, I will beat the traffic and get most of the way home for a good nights sleep.
2. The logbook states in rules for counting time, "Count time periods of 24 hours or longer forward from the end of a relevant major rest break relevant to the period in your hours option" Who then decides which is the "relevant" period? If it is about managing fatigue, I only worked for 6 and a quarter hours, then had a 7 hour break. I did not have to go far to go to bed, nor to start work. My truck is fitted with an Icepack, a refrigerated air conditioning

system that ensures consistent temperature and covers much outside noise, so I did get good sleep in that break. I also ensured that sleep was from around midnight and did so again the next day, so have made every effort to be off the road in the very early hours of the morning, recognised as the worst time for fatigue. I overlapped at 6.15PM the following night and did have a break from 7PM till 7.45 for my tea and then stopped at Parkes at 12.15AM for 9 and a quarter hours break. I stopped to manage my fatigue, I was not in any way shape or form, fatigued at 6.15PM

3. On Wednesday the 28th November at 5.30PM, two days after the alleged breach I was stopped and inspected, my logbook checked and signed at Daroolbaggie with no concern raised. This officer must obviously have used the end of the seven hour period as the “relevant” period. He obviously did not detect me then as fatigued, nor see me as in breach.
4. The logbook requires us to operate in 15 minute periods. We are required to count work time forward and so can “lose” and or give away, work time. In the 24 hour period in question, I stopped 8 times. Even if I lost only 3 minutes each of those times and it could have been up to 10 minutes, then it is quite likely if the actual time was counted, I may not have exceeded 14 hours. I have already previously written to the National Heavy Vehicle Regulator asking for the wording to be changed to read, “count forward from the LAST major rest break” to both allow us a minor amount of flexibility and to overcome this type of overlap error and the subsequent penalties. I have also written and will be doing so again, to the current National Heavy Vehicle Law Review, seeking this change and a way to recognise a good record and allow one mistake in a given period.
5. I did ask the officer if he had looked at my record and he said it was, “not bad”. I have driven interstate for 30 years, done 6 million kilometres and never had a single logbook offense and only one speeding warning. I have never ever “lost” a logbook to hide an error and am very involved in road safety and try to do the right thing. I would hope you might agree one minor overlap in 30 years is not the record of a law breaker and that with this, a warning, again considering the RMS saw no breach, would have been reasonable. I will be writing the HVNL review asking to have something put in place that will allow a minor error every five years (or around one million kilometres for most interstate truck drivers) as no one is perfect. All drivers are allowed one mistake in every ten years in NSW for a minor traffic offense and I think this is reasonable considering they will only do possibly 200,000 kilometres and we do that each year.

I sought review of the ticket twice and was rejected twice and the judge dismissed the case, but it cost me nearly \$700 lost earnings and fuel and time to attend court. Would you agree this is an unfair and costly exercise for all when a warning would have been sufficient? We have little recourse and less protections from overzealous officers. As above, I will ask that there be a provision in the new law that any driver without a serious offence, be allowed one minor breach every five years and given a warning. I did not hire counsel, that would have only doubled my costs and some judges may well have a low regard for truckdrivers, for any number of reasons, including the way we are portrayed in the press and how do we get a fair go then?

Q11. Flexibility is required. I have been told by so many drivers, “I have driven for 30 years and never had an accident by driving when fit and sleeping when tired, but I have never struggled so hard to be safe and “legal” now with all these laws, cameras and penalties. If you do the same trip each day, it is easy to work and regulate your fatigue. Even drivers who do the same overnight run each trip, are more likely to be safer than those who deal with customers who will use and abuse our time for their benefit. The Chain of Responsibility still has the driver swinging at the end and all above saying, it is not my problem. Yes things change, but for example, to have a distribution centre owned and

operated by a national supermarket chain and have them say, you cannot come onsite if you don't have 5 hours spare to unload, yet I will not be working for the majority of that time. Another told me "You cannot do timeslot deliveries in an interstate truck". When I said we could, if you unloaded us within the time period you require us to arrive within, he simply said again, you can't do it.

In 5.6.3 you recognise the issue of car drivers being at fault in a majority of crashes, yet the government has done very little to help educate those drivers about sharing the road with us until recently and it is still not enough.

Q12. Yes, but with Draft Principle 1 specifically, more input from drivers. It is hard to get drivers to contribute (and the length of these documents will scare off or deter many drivers from contributing) and many are cynical of the value of the effort they may put in, having done so and been ignored in the past. It can also be difficult to explain a problem in words to some one who does not have to "live" it. You can write a lot and still not explain the problem sufficiently for another to truly understand it.

I reiterate here my serious concern about the length of this document and the likelihood many drivers will not have the time and capacity to answer it as needed and may also then be off even looking at the next 7. I have probably spent 5 hours on this so far and few will do that for one document, let alone 8. This, if I was cynical, would be the review we have when we really don't want those affected to participate. I do recognise the difficulty in reducing the needs of the review to a workable format and size and did request this be considered when the review was announced and have again once this document was released. Thank you, Rod Hannifey.