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RE: Safe People and Safe Practices Issues Paper

On behalf of the South Australian Freight Council's (SAFC) Executive Committee and Membership I thank you for the opportunity to comment on the 'Safe People and Safe Practices' Issues Paper.

As you may be aware, SAFC is the State's peak, multi-modal freight and logistics industry group that advises all levels of government on industry related issues. SAFC represents road, rail, sea and air freight modes and operations, freight services users and assists the industry on issues relating to freight logistics across all modes.

The risk environment in the trucking industry is complex and dynamic and involves decisions affecting safety being made at many different points along the supply chain, including transport buyers, consignors, schedulers, contractors, operators and drivers. It is important to recognise that black letter law – such as the HVNL – is usually a poor tool for changing culture. Cultural change is far better influenced via education rather than legislation.

Responses to the individual questions posed in the paper are below.

Should you wish to discuss any element of this submission further, please feel free to contact me on (08) 8447 0664 or via email knapp.evan@safreightcouncil.com.au.

Yours Sincerely,



Evan Knapp
Executive Officer,
SA Freight Council.

Question 1: Have we covered the issues relating to safe people and practices accurately and comprehensively? If not, what do we need to know?

In section 2.1.2 and elsewhere authorisation – in effect licencing – is expressed as a separate factor that ‘makes up a safe driver’. This is not the case – authorisation is (or should be) a check on competence. It is not a separate safety factor – a piece of plastic does not improve safety, the underlying competence it (supposedly) demonstrates does.

In the absence of a competence check, authorisation only provides administrative benefits, not safety benefits. As such, Authorisation (licencing) within the HVNL should always be viewed as a sub-set of, or methodology for determining competence, not as a separate safety factor.

The new HVNL should have a focus on developing and embedding safe practices that may be demonstrated via SMS; not on SMS to demonstrate safety. Paper demonstrates nothing, practices do.

By way of example: The RSNL (and predecessor systems) requires a SMS. Audits of accredited rail entities focus on:

1. The adequacy of the systems outlined in the SMS for delivering safe practice; and
2. Whether the practises outlined in the SMS are actually carried out in day to day operations.

Both elements are checks on safe practice, not the existence of an SMS.

Question 2: What aspects of safe people and practices are currently regulated well? What needs to be regulated better?

Draft regulatory principle 1 states: *The future HVNL should be effective in managing the most significant risks to safe people and practices. This means targeting material risks to the safety of the driver and other road users. It should encourage safe practices while also supporting productivity for Australia's growing freight task.*

SAFC disagrees with this principle, in that it asserts that the HVNL should manage all significant risks to safety. In several instances significant risks to safety are managed via other regulatory means, including the Australian Road Rules. The new HVNL should not ‘double up’ regulation where there is currently good coverage, and should only address risks that are **specific to heavy vehicles and not otherwise adequately covered**.

The HNVL currently does not regulate speeding (other than speed limiters), drug and drink driving or distraction, but from our perspective there is no need to include this in the new HVNL as it is adequately covered by the general road rules.

HVNL does impose scheduling obligations in regards to speed – this is appropriate and HV specific.

Fitness of drivers could be better regulated in general and should include mental health as drivers have a high chance of developing depression due to the jobs demands.

Authorisation (licencing) should be a check on competency, not an end in and of itself (see the answer to Q1). As such, a more in-depth investigation of how licencing assures competency of heavy vehicle drivers and appropriate changes may be required.

Question 3: What should the future HVNL do to regulate safe people and practices so heavy vehicle drivers and others are safe? What risks are adequately managed by other regulatory controls? Are there any risks to the safe driver that are not currently regulated at all, and if so, how should these risks be regulated?

SAFC agrees with Draft regulatory principle 2: *The future HVNL should be internally consistent. It should also work cohesively with the range of regulatory controls that exist outside the HVNL.* In many ways it sums up our issues with Draft regulatory principle 1 expressed in our answer to Q2.

Driver health is one of the most important components of safe practices as the driver plays the primary role in ensuring the safety of themselves and others.

As expressed in our Fatigue submission, this could be better mitigated by providing formal fatigue training (which would include health and lifestyle factors), and the added requirement to undergo regular refreshers at a regular interval – potentially every 3 years.

It is likely that some enhancements are required in relation to driver health (see below).

Question 4: Does the primary duty and chain of responsibility in the current HVNL comprehensively cover the people who can influence the safe driver and their practices? What improvements are needed?

The current HVNL seems to cover most parties who can influence on road safety, with the potential exception of third party maintenance service providers.

A more important question is whether enforcement agencies are being proactive enough in charging Chain of Responsibility offences to non-driver influences.

Commentary under 4.3 focusses too heavily on SMSs – the Chain of responsibility does not rely on the existence of an SMS to function. We do not believe the case has been made (yet) for ‘COR points of influence for every COR party’ to be mandatory for inclusion in an SMS.

Question 5: How can the HVNL support better training and a higher level of driver competency? How can it support ongoing professional development?

If, as SAFC contends, licencing is designed to provide a basic level of assurance as to competency, then the revised HVNL should look at the desirability of increasing licencing requirements, particularly ongoing requirements. By way of example, is a driver who holds an MC licence but has not driven in a MC required vehicle for 10 years certain to be competent to drive that vehicle?

Likewise, the case study ‘No Rigorous testing of International Drivers’ on page 37 raises an issue that SAFC has been concerned about for many years. It is unacceptable that a heavy vehicle driver is incapable of backing a vehicle they are licenced for.

We understand that this issue may be complicated by international treaties on mutual recognition of driver's licences. However Australia has unique conditions and far larger truck combinations than are prevalent in most countries across the world. Recognising standard car drivers licences and recognising heavy vehicle driving licences – particularly MC licences – have very different safety implications. Cross recognition of international heavy vehicle licences should not be undertaken without a VORT (Vehicle on road test) at a minimum.

SAFC suggests that driver licencing is important enough that a separate regulatory options paper should be developed and consulted on with the broader industry – particularly if major changes are proposed.

As mentioned in previous papers, all long distance heavy vehicle drivers should be formally trained on fatigue management and undergo regular refreshers.

Question 6: Is driver health and medical fitness managed as well as it could be? Is there a case for regular medical assessments for drivers (and possibly other parties), similar to those for Safety Critical Workers in the Rail Safety National Law? Is the Rail Health Assessment Standard a good basis for a heavy vehicle medical assessment standard?

There is a prima facie case for drivers to hold a current medical certificate that confirms his or her fitness to drive a commercial vehicle (valid for 3 years).

In consideration of the aging commercial driver population, the medical assessment could be an annual requirement for those over 50, or on direction by an employer. Age increases risk, so health checks should increase as driver age increases.

The requirements for rail safety worker health assessments are determined by a risk management approach which ensures the level and frequency of health assessments conducted is commensurate with the risk associated with the tasks performed by rail safety workers.

It could be prudent to establish similar systems and procedures to ensure heavy vehicle workers receive the appropriate level and frequency of health assessment that corresponds with the risks associated with the tasks they perform.

Mental health needs more attention generally so it would not be unreasonable for driver fitness checks to include a mental health component considering that drivers have a high chance of developing depression and are generally unlikely to access mental health services on their own. However, it needs to be made clear that the existence of a mental health condition is not in and of itself a reason to 'fail' a health check – only if it can't be managed and imposes a risk to safety should this step be taken. Indeed, forcing a person with a condition to stop work may be a trigger for further mental health complications – this process needs to be managed carefully.

In general, further work needs to be undertaken to break stigma associated with mental health issues and develop a mental health safety culture in the trucking industry – however we recognise that this issue goes far beyond just the review of the HVNL.

Question 7: Should heavy vehicle driver licences be national? If so, should this be by mutual recognition, nationalisation or some other approach? If licences shouldn't be national, why not? Should licensing progress subject to experience rather than arbitrary timeframes?

National regulation is always preferable in the transport industry – as the development of the three national regulators clearly shows. Whilst nationalisation is preferable to mutual recognition, jurisdictions may disagree.

SAFC agrees that an experience component to licencing would likely have value. However again we suggest that if major changes are envisaged to licencing systems that they form a separate regulatory options paper with the opportunity for appropriate industry input.

Question 8: Should the HVNL do more to help manage drug and drink-driving? For example, should it include a drug and alcohol management program requirement such as the one required in rail? Is on-road enforcement enough?

Drink-driving is not known to be an issue in the modern trucking industry so at this point in time, on-road enforcement is enough to manage the matter. Drug driving is marginally more prevalent (but still rare), and we contend that again on-road enforcement and education is sufficient in managing this low level problem.

Cultural change is more important in this instance – and the industry itself is doing a very good job of doing so.

Nevertheless, a drug and alcohol management program should be a required component of a full SMS.

Any accreditation or code of practice established under the restructured HVNL should support those operators that have a system in place for testing for drugs and alcohol. This step should be supported by publicly funded education campaigns that inform all drivers of the risks of substance dependence and abuse.

Question 9: Do the Australian Road Rules do enough to manage driver distraction, speeding and other on-road behaviours? Is the primary duty in the current HVNL rigorous enough to manage the practices of chain of responsibility parties who can influence a driver to operate unsafely?

In our view, the ARR are adequate in these areas. These are not Heavy vehicle specific problems, and therefore should be dealt with once via the ARR, rather than multiple times in multiple legislative instruments. An additional level of requirements within the revised HVNL would add complexity and likely not improve safety outcomes.

In our observation, the primary duty is adequate for the management of COR parties, but enforcement up and down the chain has been lacking to date, providing limited incentive for other chain parties to change or reconsider historic practice. A greater focus on COR prosecutions of non-driver/trucking company offenders would be beneficial.

Question 10: How can the future HVNL encourage a stronger role for safety management systems in a way that doesn't disadvantage smaller or more seasonal operators? Can registered industry codes play a role in supporting smaller operators to develop safety management systems?

Although Safety Management Systems are a great way to minimise the risk of people getting hurt and preventing damage to vehicles and infrastructure, the road transport industry is majority comprised of sole operators with one to four vehicles – not larger corporate entities with significant regulatory compliance divisions that can build custom regulatory compliance solutions to accommodate their businesses.

Operators should be provided with flexibility to choose the most suitable compliance option, where options are appropriate. Safety Management Systems should not be forced upon operators, but rather be a choice.

SAFC supports the implementation of flexible systems that allow individual operators to choose their method of demonstrating compliance. To balance flexibility with oversight, safety must be the prime determinant, followed by efficiency. For example, some options may require acceptance of an annual audit.

The HVNL should be designed so that it encourages operators to be actively engaged with achieving safety outcomes by being able to adopt new innovations without being forced to meet excessive regulatory requirements to demonstrate this. Where possible, a history of demonstrated safety and compliance should have practical benefits for the operator in terms of lower administrative burden/costs.

Regulatory authorities should be given the tools to be as flexible as possible to meet operator and public expectations whilst ensuring that non-negotiable safety considerations are still met.

Question 11: How can the future HVNL nurture a culture that places a high level of importance on safety?

Culture is informed by values and behaviours and cannot necessarily be legislated; therefore it is the onus of individual companies to nurture the safety culture in their workplace. The concept of safety culture is encapsulated by the mindsets, attitudes, and behaviours of workers, supervisors, managers, owners and supply chain participants toward safety in the workplace. A positive safety culture in the workplace is an absolutely vital part of a successful and effective health and safety program.

The future HVNL should encourage all operators to develop a safety culture. This is an organisational culture that places a high level of importance on safety beliefs, values and attitudes. In a safety culture, safety should be embedded as a priority in everything the organisation does with the safety values and attitudes shared by all people within the company; research across different sectors shows that a strong safety culture has the greatest impact on reducing injury, illness and death in a workplace.

The future HVNL should encourage safety cultures to be achieved by developing risk management approaches which allow drivers and operators to set and monitor risk controls.

The development of a suite of materials for use in 'toolbox talks' would be useful in assisting small operators in developing their safety culture in the absence of an SMS.

An organisations safety culture should be consistently be reviewed and improved upon to reduce incidents and accidents in the workplace. The operator should focus on initiating change through analysis, consultation with staff and implementation.

In many respects, it will be industry and the NHVR who take responsibility for developing a safety culture through education, tools development and enforcement – not through the HVNL. Black letter law may be an effective tool for forcing mandated changes in procedure, but it is a poor tool for changing culture.