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National Transport Commission
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HVNL Review Issues Paper – Safe People and Practices

Thank you for the opportunity to provide comment on the above HVNL Review Issues Paper.

I will not repeat feedback I have provided in other Review Papers except to re-enforce the important point that I made previously (as referenced in this Issues Paper) that achieving better outcomes very much relies on the industry being recognised and embraced as a valued, trusted and more mature partner in delivering better safety outcomes.

Just like with our own people, it is critical that the industry is a valued and respected partner rather than being seen as an audience that can be dictated to through a heavily prescribed Law. The danger in such an approach is that we develop Laws to just manage the worst 10% which then through prescription penalises the 90% who are trying to do the right thing.

This Review paper outlines some complex challenges relating to “how long is the piece of string”. By this I mean should the HVNL attempt to cover everything or rely on other instruments to achieve better outcomes in some areas. There is no simple answer here except to say, again, I think the HVNL should provide an overarching framework and principles in key areas with the detail (and flexibility to adjust) where appropriate left to other Laws and also subordinate mechanisms to provide controls to cope with real time requirements in an ever changing and dynamic industry.

As an aside, I also think that these Review papers are highlighting that whilst a solid legislative HVNL base “fit and compromised for the time” was put in place previously, rapid changes in the industry and more broadly coupled with massive innovation advances have left this base behind and outdated as it tries to cope with what is a new and ever changing environment covering both safety and productivity.

Comments on what I see as key issues from this Paper follow:

Learn from others, don't blindly follow

I note a number of references in this Review Paper to systems and requirements in aviation and rail that don't currently have a legislative basis in the HVNL. I don't believe and think it is dangerous, as a principle, that we should just blindly adopt what these sectors have done through thinking that if its good for them, it must be good for trucking! This doesn't mean we shouldn't have specific fit for duty and competency (rather than just licensing) requirements, it just means we should make sure

they are relevant to the trucking industry. It is critical to remember that trucking has a much wider spectrum and immense diversity of operations to these other sectors and trying to “copy” what they have done would in my opinion be disastrous.

National and competency-based heavy vehicle driver licensing a must for many reasons

National approach – one license – one data base

I believe we need to look to include a nationally consistent approach to driver licensing (Question 7) in the HVNL and move away from the current state-based systems and requirements.

As a principle, I think heavy vehicle drivers and their safety performance should be transparent and they also should not be required to change their license simply because they move to another state.

I also believe the “one national license” system for heavy vehicles would allow for relevant driver safety data to be available for both industry and enforcement purposes in the one national system. This approach is critical so we can jointly continue to improve safety through better assessing and identifying trends that can need be addressed through collaborative education and where necessary, compliance actions.

Yes, I’m guessing there will be state jurisdiction resistance probably justified on perceived financial considerations (and some will say privacy although I consider safety imperatives should override these). I also expect IT objections from some state jurisdictions will be encountered where overtime I have seen ownership and “protecting our patch” fights occur without much focus on the desired goals but I consider achieving better safety outcomes should clearly override these objections.

Governments need to embrace change too

Overall, I’m not sure how governments can continue to avoid delivering better outcomes in these key areas simply based on the perceived financial or other “hit” some might take or because “it’s all too hard” reasoning. State jurisdictions need to be part of the solution rather than being the problem. Let’s be honest, the current HVNL is as it is because the State jurisdictions would not let go in the first place and much compromise was made at the time just to get it over the line. Today, we hope a new maturity is evident and we can find ways to get them on side and to stop hiding behind the old “Ministers decided” line. These bureaucracies need to be held responsible for getting on board and delivering better outcomes in partnership with industry.

In all the Review papers, the case and increasing obligation is clear for jurisdictions and Governments to adapt and change to keep up with industry safety innovation. This will be a huge issue for the NTC, the Review and the NHVR as just like the minority of recalcitrant industry operators (sometimes the noisiest), we’ll find a minority of bureaucrats using fear tactics to avoid change with I have no doubt, the politically sensitive environment relating to heavy vehicles being used to good effect. I can just see them saying “that’s a bold decision Minister”

Clearly, we need a stand- alone but vitally important Discussion Paper focussed on the challenge and hurdles in getting governments and jurisdictions on board. The appetite to do this will be a true test of whether we are fair dinkum about achieving genuine improvements or just more of the same.

Competency based licensing, not graduated, to deliver long term workforce

We need to use this Review opportunity (Question 5) to address and remove the age-based and graduated approach to heavy vehicle licensing. For whatever reason and despite the industry constantly seeking a review of these arrangements for the last decade, this issue keeps disappearing from the list of things to do.

If we are going to make heavy vehicle driving a career option of choice and develop the workforce of the future, we need to move to a skill and competency-based approach which doesn't discriminate on the basis of age. The reality today is that many companies cannot provide a graduated approach through smaller vehicles in addition to the fact many young drivers do not want to work in urban environments where this may be more achievable. And the age-based approach creates even worse outcomes in regional and remote areas with many sectors, not just trucking seeing workforce availability hitting crisis proportions.

We used to have a better outcome where many young people grew up and around trucks and could simply continue into that occupation when they were old enough and very much capable of doing so. Graduated licensing destroyed this pipeline of willing drivers. We also need to recognise that a lot of the skills training happens on the job as drivers experience different loads and sectors to which they must adapt as part of being a driver.

We are currently seeing an ever-increasing aging driver workforce plus an influx of drivers from overseas as we attempt to fill this shortfall caused in part because we don't provide a school leaving opportunity. These prospective drivers go and do something different and are lost forever. This also means that truck driving becomes a job of last choice for some which isn't the right credential for being a professional and safe heavy vehicle driver.

Safety Management Systems (SMS), Accreditation and Fitness for Work

SMS flexibility is critical

Allowing the NHVR to provide greater flexibility to companies and drivers who can prove they do what they say they do in line with an approved approach is an important change required in the HVNL to deliver better safety outcomes (Questions 10 and 11).

The authority to approve SMS's should be provided for in the HVNL but with the detail to be determined through a flexible approach outlined in the Regulations. Avoiding the temptation to be too prescriptive in the Law or the Regulations in this area will be challenging to jurisdictions, we must all learn to trust and hold the NHVR accountable for such arrangements.

As an example, I know of many 1-5 truck companies that have fantastic SMS's in place but they are built more around more informal and a social license culture than a tick and flick paper work one. Embracing and coping with this vast variance in approaches based on the unique qualities of trucking will be critical if the HVNL is to undertake a successful venture into this space. The danger is that we will create a huge bureaucratic nightmare for small businesses who in many cases due to the internal relationships can "do safety" better than larger ones. We just need to have guidance material and templates to assist which I see as an increasing role for the NHVR in a partnership with industry.

I previously commented on the importance of improving outcomes with fitness for duty in my response to the Fatigue Paper. I think education is a key issue here as is working towards the development of an objective measure of fatigue impairment.

Accreditation – part of, not THE answer

To some extent, I think we've missed the boat with encouraging industry to take up formal accreditation schemes because jurisdictions have refused for so long to consider and offer benefits to participants. I think the worst thing we could do is start mandating such schemes (Question 10) as this will just start a race to the bottom and introduce another process rather than achieve a safer outcome.

Having said that, accreditation schemes can still play an important role in terms of providing a framework and support mechanisms for companies to pursue SMS's. To do this, the simple principle has to be accepted that regulatory benefits and rewards need to be available to cover the investment costs involved.

My hope is that the NHVR will also play a key role in delivering assistance in this area (templates, guidance material, flexible standards) as the reality is that most 1-5 truck companies won't pick up accreditation simply due to the costs and red tape involved.

And yes, re Question 9, the ADR's (see my broader views on ADR's in my response to the Vehicle Standards Paper) should provide the flexibility to include safety innovation that is today common place in heavy vehicles and it should not be optional as to whether it is turned on or off.

Medical fitness for duty – many challenges

Everyone I know in the industry wants their drivers (and staff in general) to be healthy and able to do the job for which they are employed. There is a huge cost when people are off work either through sickness, injury or simply because they aren't medically fit to undertake the task.

Moving to a better outcome on the broader issue of medical fitness (Question 6) for the truck driving task will be problematic. The current heavy vehicle medical tests imply a fitness for duty but in reality, this is not the case in many instances. This failing can lead to health and safety issues needing to be addressed in the wrong context and then extending to industrial and shortage of driver consequences. Ironically, our graduated driving licensing system exacerbates this problem and together these issues exponentially increase the safety risk with companies left to fix the problems created by the outdated and in many cases unsafe regulatory system.

I know there are many health challenges here including those that are more community rather than industry based. We don't seem to be getting the right result whether it is the actual focus of the medical or a case of a local doctor under pressure to help someone they know keep their job.

We are finding our fatigue and distraction device technology is picking up previously undiagnosed sleep and health issues we would not otherwise have known about. This is creating safety and employment challenges when combined with a lack of access to services to assess and help drivers address issues. Contrary to some perceptions, companies will do whatever they can to help a driver overcome identified health problems; to do this we need to have a heavy vehicle driver medical system that supports better safety outcomes including more transparent identification of medical issues that can cause safety issues.

Alcohol and drug testing (Question 8) isn't as easy as it sounds given the varying start duty locations and the need in some instances for independent testing services which are not always available. As I've said before, this is a good example of how road freight transport is vastly different from other sectors. From my perspective, the industry culture around the non-use of alcohol is very strong today and it is very rare to find examples in long distance and regional uses although I'm not sure about the urban and smaller heavy vehicle sector.

Managing the use of drugs is increasingly a community wide challenge and I think we need to address it from this angle in terms of education and understanding of the dangers involved with use and driving. Based on our data from the fatigue and detection devices we have installed in all our vehicles, I consider addressing distracted driving is a bigger and higher priority safety challenge across the board.

RFT is moving towards a system which will see the majority of our depot-based drivers undertaking alcohol and drug testing every time they start duty with some challenges to address with drivers that don't start out of one of our depots. This initiative is part of being seen to meet our good citizen and social license responsibilities more so than to address a perceived problem.

Chain of Responsibility is key to continuing culture change along the chain

Whatever we do with the new HVNL, it is absolutely essential we ensure the CoR legislation stays in step with it. CoR is slowly making a difference but we have a long way to go. Many of the safety issues involved in trucking are caused in pick up and drop off points and we need to continue to improve the transparency in this area. Removing some of the prescriptive Laws which provide little flexibility and no safety benefit to drivers or the community is a start point but increasing the accountability on customers to better manage trucks "in and out" is important. It's doable, the pressure and transparency just need to lift so challenges are addressed.

I saw a quote recently, whilst "folksy" is highly relevant to the "holy grail" we are seeking in terms of customer/driver interactions:

"Unloading at xxxx and treated with such hospitality I haven't seen in a long time. Greeted at the gate with there's coffee ready or if you want, take one of our trucks into town if you want breakfast while we unload! Great place 5 stars ☆"

Unfortunately, the reality today in many places is the opposite. This remains a basic and fundamental challenge in delivering better safety outcomes.

Road infrastructure – a key role to play in better safety outcomes

I was surprised that there wasn't more commentary on this issue and consider delivering "safe roads" is as important an influencer as pursuing safe drivers and safe vehicles. Good roads have a massive influence on safety outcomes and whilst I acknowledge that achieving better outcomes on the road supply side is part of a discussion in other areas, I don't think it should be ignored when discussing safe people and practices.

Current Load Restraint Laws are a problem

In my view, far too much responsibility is pushed back to the driver under the current load restraint laws. We have customers that "load and lock" trailers and yet somehow, drivers are somehow accountable rather than the CoR applying. We'll also have customers load a vehicle then require the driver to "sign off" as an expert. Again, this is an unreasonable outcome. If you couple this with the varying competency of the enforcement staff, we again end up with the low risk problems being the focus on defect sanctions rather than a focus on high risk activities.

Conclusion

The more I read and respond to the many Review papers, the more I see the opportunity to embrace a new and improved approach across the board. In saying this, I can see the huge challenges the Review is identifying and the possibility that governments will flounder under the weight of pursuing important change to improve safety outcomes.

In this context, I think it's important that sufficient (and more) time is given to the Review and that outcomes are not rushed or the lowest common denominator agreed. If this means an extension of time, especially to review options out of all the feedback, then let's do that and ensure this perhaps once in a generation opportunity to build a new and better approach to the HVNL is optimised.

Finally, re Question 11, I have seen an ever-increasing focus and improved culture in relation to safety across the industry in the last two decades. This trend and continuing improvement in culture will continue If we can move away from focusing on too much prescription and minor breaches and improve the HVNL to encourage safer operations. You can't write culture into Law or indeed company practices, it comes from people feeling appreciated and connected to achieving better outcomes. Of course, the other reality here is that some industry issues simply mirror those that exist in the broader community e.g. with driver distraction. These types of issues need a whole of community approach to address the cultural issues involved and cannot simply be addressed through industry specific actions.

Kind Regards

A handwritten signature in black ink, appearing to read 'Ron Finemore', with a stylized flourish at the end.

Ron Finemore AO
Executive Chairman