



ALC Calls for Real National Laws in Maritime Safety, Rail Safety and Heavy Vehicles

The Australian Logistics Council (ALC) has written to all transport ministers to reaffirm support for real national laws in maritime safety, rail safety and heavy vehicles.

The letter was written ahead of the Standing Committee on Transport meeting on 30 March 2011 and the Australian Transport Council meeting on 20 May 2011.

“ALC is very concerned that these regulators will not be deemed a success if a new layer of regulation is created, rather than real national laws with a national approach to compliance and enforcement”, said ALC CEO Michael Kilgariff.

“ALC is concerned that a national approach to the Australian Heavy Vehicle Industry may not be achieved by the recently released draft National Heavy Vehicle Law (NHVL) and its accompanying draft regulatory impact statement (**the draft 2011 RIS**).

“ALC is of the view that COAG and transport ministers should ensure that the National Heavy Vehicle Regulator (NHVR) is the government agency with responsibility to administer and enforce the national law and that a model be supported in which:

- (a) all critical functions of the national system are to be performed by officers of the national regulator;
- (b) other agencies (such as state police forces and work cover authorities) only be eligible to receive a delegation if they have undergone suitable training provided by the national regulator; and
- (c) delegated agencies are prohibited from publishing guidelines on how the national law is to be interpreted or implemented.

“While the National Rail Safety Draft Bill, Regulations and Regulatory Impact Statement have not yet been released ALC is also concerned that a truly national approach to rail safety should be a similar objective.

“ALC notes that the draft 2011 RIS estimates total gains of \$12.4 billion could be available if a national scheme is implemented¹.

“However ALC is concerned that the total gains identified in the draft 2011 RIS could be lost if the proposed national regulator does not have full responsibility for the operation of the national law.

“It is also unclear what is meant when the draft 2011 RIS suggests the national regulator will ‘administer’ the national law. ALC notes the draft 2011 RIS suggests ‘compliance functions’ will be contracted out to existing jurisdictional bodies.²

“The ultimate concern by ALC is that that notwithstanding the clearest of guidelines, individual government entities will:

- (a) develop their own cultures;

¹ See page iii of the Regulatory Impact Statement

² Page 20 of the RIS

- (b) interpret the provisions of the national law in diverging ways (and may perhaps develop internal guidelines that will effectively become the law as those guidelines are utilised in practice by junior officers) particularly as it relates to the interpretation of chain of responsibility issues; and
- (c) develop their own enforcement priorities.

“The net effect may be that the national law will not be enforced uniformly and the benefits of a single national law identified in the draft 2011 RIS could be lost.

“This concern is reinforced by the observation contained in the draft 2011 RIS that:

The distinctions between legal and operational impacts are not always precisely delineated; what is operationally practical will impact legal frameworks and vice versa³

“Similarly, ALC is of the view that the National Rail Safety Regulator should be the sole government agency with responsibility to administer and enforce rail safety regulation, as well as publish guidelines on how those regulations are interpreted.

“ALC will continue to engage with all Governments and officials to encourage the adoption of measures designed to achieve real national laws in the Australian transport and logistics industry”, Mr Kilgariff said.

Ends

25 March 2011

For further information please contact Australian Logistics Council on 0418 627 995.