

17 February 2017

Ms Sharon Masterson  
Manager, Corporate Partnership Board  
International Transport Forum  
[Sharon.MASTERSON@itf.oecd.org](mailto:Sharon.MASTERSON@itf.oecd.org)

## **DATA-LED OPPORTUNITIES: ENFORCEMENT OF EXISTING RULES, IMPLICATIONS OF RELATED DEVELOPMENTS, AND THE SHIFT TOWARDS A NOVEL DATA-DRIVEN REGULATORY FRAMEWORK – AN AUSTRALIAN LOGISTICS COUNCIL PERSPECTIVE**

The Australian Logistics Council (**ALC**) is the peak national body representing the major and national companies participating in the freight logistics industry, with a focus on national supply chain efficiency and safety.

ALC has long argued that it should be mandatory for heavy vehicles to collect and maintain data relating to speed and fatigue offences so it is available for use by both businesses and enforcement agencies.

The current Australian Government has recognised, at least in part, the validity of this approach, as illustrated by the call for the mandatory use of telematics in heavy vehicles provided by the Employment Minister Senator the Hon. Michaelia Cash in an interview conducted on 11 April 2016.

**DAVID SPEERS:** As Minister, would like to see every truck installed with GPS technology to track how fast, how many hours drivers are doing at all times?

**MINISTER CASH:** I think it is a great step in the right direction that we utilise technology to the most effective way that we can to ensure that we are all safe on the roads.<sup>1</sup>

There may be a need to collect data for other purposes.

For instance, in a Ministerial Statement made on 2 December 2015, the Hon. Paul Fletcher MP, then Minister for Territories, Local Government and Major Projects, announced the Australian Government will accelerate work with states and territories on heavy vehicle road reform and investigate the benefits, costs and potential next steps of options to introduce cost reflective road pricing for all vehicles.<sup>2</sup>

The first step is projected to be the pricing of heavy vehicle access to roads on a mass and distance basis.

---

<sup>1</sup> Interview: Senator Michaelia Cash, Sky News, Monday 11 April 2016.

<https://ministers.employment.gov.au/cash/sky-news-pm-agenda-david-speers>

<sup>2</sup> <http://paulfletcher.com.au/speeches/parliamentary-speeches/item/1540-ministerial-statement-road-pricing.html>

Work on the project to date has suggested that one of the great challenges for a road owner designing forward looking investment and maintenance plans (like those prepared by electricity and telecommunication companies, - the preferred basis for road pricing reform) is to determine how many heavy vehicles use a particular road.

Information collected and retained by operators is the most pragmatic and achievable way to allow road users to gather this difficult to collect data and use it as the demand estimate in any investment and maintenance plan submitted for consideration to an economic regulator.

To give the community assurance that road transport operators have in place systems to ensure that vehicles are operated safely, ALC believes the Australian *Heavy Vehicle National Law*<sup>3</sup> require heavy vehicles to capture data recording:

- the movement of motor vehicles;
- the longitude, latitude, speed, date and time of circumstances of speeding events; and
- engine on/off data.

and for such data to be retained by operators.

Logistics chain participants also value the ability to transfer non-proprietary information between participants of a freight chain so judgments can be made about the most efficient way to dispatch goods.

An example that ALC usually refers to is the Hunter Valley Coal Chain.

This competition regulator approved model allows coal miners, and rail and port operators, to harmonise the movement of coal down the chain to ensure the prompt movement of exports without port congestion and the subsequent demurrage costs that would otherwise be payable.<sup>4</sup>

ALC policy is for governments to encourage the development of mechanisms permitting the transfer of non-proprietary information across identified transport and logistics chains.

This includes amendments to legislation (including competition law) that may prevent the sharing of certain classes of information.

Such an outcome would permit the development and use of impartial industry wide ICT solutions enhancing the efficiency of the transport and logistics chain.

Data is getting easier to collect.

Much of it can be collected through smart phones that are nowadays one of the things in a heavy vehicle cabin, or through devices that are part of the vehicles themselves.

---

<sup>3</sup> The legislation used to regulate heavy vehicle safety in most Australian jurisdictions

<sup>4</sup> Explained here: <http://registers.accc.gov.au/content/index.phtml/itemId/879882/fromItemId/401858>

This leads to a final concern harbored by ALC that as technology becomes more dynamic and cheaper, different jurisdictional regulators will require heavy vehicles to use multiple pieces of hardware prescribed by particular laws to capture data fields that may be identical to information required by other regulators.

As an example, section 144AC of the *Protection of the Environment Operations Act 1997* (NSW) allows the NSW Environmental Protection Authority to require certain operators transporting waste to carry **specific** approved GPS tracking devices.<sup>5</sup>

Given the above, ALC has been advocating a framework to guide the issue of the electronic gathering of data for government (and other) purposes that looks something like this:

1. Data collected by a business is the property of the business.
2. Regulators and enforcement agencies may only collect and use data collected by businesses:
  - (a) In the manner authorised: and
  - (b) For the purposes intended by An Australian law.
3. Access should otherwise be governed by the privacy principles in force in the jurisdiction.
4. Regulators must clearly specify in legislation:
  - (a) The data fields to be collected
  - (b) The purposes for which it is being collected; and
  - (c) The confidence level which the data must possess.
5. Regulators need to accept that in the usual case, commercial data applications will not be calibrated to record data to a level that it can be presented as evidence of the facts recorded beyond a reasonable doubt.
6. However, such a level of certainty is not necessary in most government applications, such as data recorded for revenue, planning or monitoring purposes. Regulators therefore need to consider whether a particular statutory requirement needs the collection of data accurate to the level of confidence required for prosecution purposes.
7. Businesses should be able to use systems designed and represented by vendors as meeting prescribed data confidence levels for a particular statutory purpose, or if absolutely necessary, using equipment that satisfies regulator 'type approval' requirements.
8. Regulators should endeavour to develop a consistent confidence level for data collected for civil statutory purposes.

---

<sup>5</sup> The suggestion is that relevant operators would be required to use devices sourced from one approved provider, who had won a tender to provide units to the Government so that it can provide the units to relevantly obliged operators.

Please contact me on +61 418 627 995 or at [Michael.kilgariff@austlogistics.com.au](mailto:Michael.kilgariff@austlogistics.com.au) should you wish to discuss this matter.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Michael Kilgariff". The signature is fluid and cursive, with the first name "Michael" and last name "Kilgariff" clearly distinguishable.

MICHAEL KILGARIFF  
Managing Director