

Road Market Reform Section
Land Transport Market Reform Steering Committee Secretariat
The Department of Infrastructure, Transport, Regional Development and
Communications
GPO Box 594
CANBERRA ACT 2601
E: hvrr@infrastructure.gov.au

26 October 2020

Dear Gareth Prosser,

The Australian Logistics Council (**ALC**) is the peak national body representing major companies participating in the freight logistics industry.

ALC's policy focus is on delivering enhanced supply chain efficiency and safety.

It welcomes the opportunity to comment on the *Proposed Changes To The Way Heavy Vehicle Charges Are Set And Invested* consultation paper (**the consultation paper**).

ALC has been participating in the development of road pricing reform through not only the Heavy Vehicle Road Reform (**HVRR**) process but also its predecessor COAG Road Reform (**CRRP**) and Heavy Vehicle Charging Initiative (**HVCI**) projects.

As ALC indicated during consultation workshops, it is disappointed by the very slow progress made in the development of this project.

That said, it remains committed to the development of a road pricing process that fairly captures all the relevant cost components of roads that are within scope (including depreciation costs and returns on investment) so that, as far as is practicable:

- pricing does not distort the choice of transport mode used by consignors and/or consignees in the transport of freight; whilst
- road infrastructure development undertaken to advance either general congestion issues, light vehicle user or community amenity (rather than the efficient movement of freight down the supply chain from freight generation point to ultimate destination) is not cross subsidised by heavy vehicle operators.

One of the key benefits of HVRR is the opportunity to align more closely road and rail pricing and create a more level playing field and hopefully help get more freight on rail – an aim of a number of jurisdictions.

Whilst this reform is only about the supply side, the proposed methodology for roads will facilitate a more similar approach to rail.

This is a useful outcome, even if this will not be fully achieved until the demand side of HVRR is progressed.

ALC remains concerned that this partial market reform, if not executed soon, will be overtaken by other road pricing considerations, such as managing the increased uptake electric vehicles, as discussed at length by the NSW Government in its paper [NSW Review of Federal Financial Relations: Supporting the Road to Recovery](#) and therefore urges the new National Cabinet structure to expedite the HVRR process.

In relation to the questions posed in the discussion paper:

Independent setting of heavy vehicle charges

With respect to this issue, the discussion paper seems to repeat in an abbreviated form the contents of the Department's [Independent price regulation of heavy vehicle charges](#)¹ discussion paper published in May 2017².

ALC's response to that discussion paper³ is set out in Attachment 1 of this submission. It has nothing further to add in this area.

National service level standards

Given the atomised nature of the heavy vehicle market and the complexities involved in the design, development and construction of roads, some form of standardised service level along the lines anticipated in the discussion paper appears to be necessary if there is to be genuine operator consultation on road service levels and national consistency in outcomes.

ALC acknowledges observations made by the Department during consultations conducted for the purposes of this discussion paper indicating that current service level standards developed commonly (but not exclusively) by Austroads are designed to conveniently capture engineering standards rather than the nature of productivity enhancing investments such as rest stops and overtaking lanes that should be developed on any level of road.

However, ALC has some concerns about the breadth of the observation contained on page 13 of the discussion paper which suggests that when governments plan investments, they would need to consider all stakeholders including heavy and light vehicle drivers, cyclists and pedestrians.

¹ <https://www.treasury.nsw.gov.au/sites/default/files/2020-06/FFR%20Review%20Draft%20Report%20.pdf> – see particularly Chapter 8: *A Crossroads for Road Funding*

² <https://www.infrastructure.gov.au/roads/heavy/files/IPR-Discussion-Paper.pdf>

³ <https://www.austlogistics.com.au/wp-content/uploads/2017/07/ALC-Submission-to-the-Land-Transport-Market-Reform-Group.pdf>

ALC has made clear over the years that it does not see heavy vehicle road user charging as being an 'ATM' for state and territory governments.

Whilst light vehicle use of any particular piece of road infrastructure needs to be considered ALC would not support a process that could create the risk of this process being used as a mechanism to fund road investments advancing road users as a whole (or a political interest of a government) rather than being part of a process of identifying the:

- legitimate costs involved in the development of specific pieces of infrastructure designed to enhance the productivity of heavy vehicles; and
- the proper amount that is attributable to maintaining the road as a result of use by heavy vehicles.

Any standard developed would need to clearly indicate the weighting that factors other than those set out immediately above possesses when expenditure plans are being developed.

User Input

An intention to provide user input about the level of road standard on a particular route has been part of the heavy vehicle road pricing reform process since at least the HVCI project.

The inability of being able to develop a suitable consultation process was one of the reasons why HVCI failed to proceed.

Whilst the creation of the concept of a service level standard clarifies the types of investment that can be funded under road user charging, it is nevertheless somewhat disappointing that in the intervening period between the end of the HVCI process and now that some forms of consultation model have not been developed for testing.

The methods set out the Office of Best Practice Regulation's [Guidance Note](#) (2020)⁴ set out the most obvious mechanisms.

The Australian Energy Regulator has formalised its method of consultation that is consonant with the *Guidance Note*. It places importance on clearly identifying parties to be nominated, and then publishing a draft report for comment before proceeding to a final decision.⁵

In this context, any proposed expenditure plan proposed to be submitted to the independent regulator would be exposed in draft before finalisation.

This would be best practice as it would allow relevant parties to comment on plans to ensure they are appropriate.

⁴ https://www.pmc.gov.au/sites/default/files/publications/best-practice-consultation_0.pdf

⁵ See Attachment A of *Interim Forecasting Best Practice Guidelines – Retailer Reliability Obligation* (2019): <https://www.aer.gov.au/system/files/AER%20-%20Final%20Determination%20-%20Interim%20Forecasting%20Best%20Practice%20Guidelines%20-%20September%202019.pdf>

The Department may also gain some benefit from considering the discussion contained in the 2007 paper published by the Czech Government *Proposal of Procedure to Introduce Methodology for Public Consultation at Elaboration of Government Documents*⁶, particularly as it relates to choosing parties to be consulted.

Finally, when involved in discussions with industry association relating to providing feedback on service level standards in the energy industry, ALC has observed that the common observation is that feedback provided that many stakeholders simply do not provide the time or resources to provide meaningful contributions to requests for information because of a perception that final decisions have been made.

Developing complex consultation mechanisms will not achieve the preferred outcome if there is a perception that consultation is merely 'tick a box'.

ALC would anticipate that national service level standards would be reviewed using the process currently used by the National Transport Commission (**NTC**) in the development of the PAYGO under review.

Dedicating heavy vehicle revenue to roads (hypothecation)

ALC strongly supports hypothecation.

Given the 'postage stamp' method of road user charging that is being proposed, there must be a clear indication as to how much each jurisdiction has spent on each road the subject of an approved expenditure plan every financial year.

Developing a 'true up' process to ensure only the amount that should be collected from heavy vehicles over a period of time, as set out on page 26 of the Discussion Paper, is supported.

Please contact me on 0417 142 467 or kirk.conningham@austlogistics.com.au should you wish to discuss this matter.

Yours

sincerely



Kirk Conningham

Chief Executive Officer

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<https://www.google.com/search?q=Proposal+of+Procedure+to+Introduce+Methodology+for+Public+Consultation+at+Elaboration+of+Government+Documents&og=Proposal+of+Procedure+to+Introduce+Methodology+for+Public+Consultation+at+Elaboration+of+Government+Documents&aqs=chrome..69i57j95j0j7&sourceid=chrome&ie=UTF-8>

ATTACHMENT



11 July 2017

Land Transport Market Reform Branch
 Department of Infrastructure and Regional Development
 GPO Box 594
 CANBERRA CITY ACT 2601

**SUBMISSION TO THE LAND TRANSPORT MARKET REFORM GROUP PAPER ON
 INDEPENDENT PRICE REGULATION OF HEAVY VEHICLE CHARGES**

The Australian Logistics Council (ALC) is pleased to make a submission to the Land Transport Market Reform Group's *Independent Price Regulation of Heavy Vehicle Charges* discussion paper (**the discussion paper**).

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.

Australia's supply chains do not stop at state borders. Our economy is national – and accordingly a nationally consistent approach to infrastructure and regulation is required.

As ALC indicated in its 2016 document *Getting the Supply Chain Right*:¹

*The Transport and Infrastructure Council, chaired by the Commonwealth, is developing a road pricing system to replace the current PAYGO formula, with a view to adopting independent price regulation for heavy vehicles by 2017-18. There have been a number of government reports, including the Harper Review, that have called out Australia's road network as the least reformed of all infrastructure sectors. With the logistics industry, and the overall Australian economy, absolutely reliant on an efficient road network this reform needs to be undertaken with due care and consultation with industry.*²

As the Review moves towards a pricing model adopting a forward looking (lifecycle) cost base (an **FLCB**)³ for heavy vehicles, it is important that an appropriate entity with an appropriate skill set should perform the role of independent price regulator.

As ALC said in its 2014 response to the Competition Review (the Harper Review):

ALC notes the Panel's recommendations on pages 295-297 of the Draft Report for a single national access regulator for utilities. ALC has long supported the idea of national institutions being responsible for the seamless administration of services essentially provided with a national market.

For that reason, it has supported the establishment of institutions such as the National Heavy Vehicle Regulator and the Office of National Rail Safety, and is attracted to the establishment of a body suggested by the Panel.

¹ <http://www.austlogistics.com.au/wp-content/uploads/2016/05/Getting-the-Supply-Chain-Right.pdf>

² *Getting the Supply Chain Right*: 20

³ Discussion Paper: 6

ALC notes that the Productivity Commission considered such an idea in its Draft Report on Public Infrastructure, before recommending that roads be funded using the 'building block' methodology with funds drawn from state based road funds. As a first step, a single national economic rail regulator could be established.

The benefits of this approach are:

- 1. A single economic regulator would reduce uncertainty – as it delivers a consistent approach to key regulatory rules – e.g. cost of capital, contracting approaches, network rules;*
- 2. The regulatory regime would differ according to circumstances; for instance there would be different rules for grain versus coal networks, different rules for vertically integrated versus non-vertically integrated track providers. However, any differences would have an economic rationale;*
- 3. Having a single national economic regulator would reduce the risk of regulatory capture;*
- 4. The volume of rail work for the national regulator would allow for the creation of a specialised centre of rail expertise rather than spread over six different organisations, as is currently the case; and*
- 5. The movement of freight across state borders by rail would have the same access rules throughout the country, an appropriate outcome given the effective single national market that exists in Australia in the 21st century.⁴*

Although these observations were made in the context of rail, similar considerations apply within the road modality. They are relevant even if a decision is made to adopt the recommendation contained in the Productivity Commission's 2014 report on Public Infrastructure, which suggests the development of 'postage stamp' pricing to fund jurisdictionally based road funds.⁵

It follows that in the intermediate to long term, ALC supports the establishment of a single national economic regulator for the transport and logistics industry to deal with all pricing/access/authorisation issues that may arise in this industry sector.

In ALC's view, the Australian Competition and Consumer Commission (**ACCC**) is the only genuinely national agency with the appropriate level of expertise to act as an economic price regulator.

This would also send a powerful signal as to the scale of this reform.

It is anticipated that until a capacity has been developed to identify the standard of infrastructure required by industry to enhance productivity, and what industry is prepared to pay, the economic regulator would make road access pricing decisions.

In the long run, it would set pricing principles and supervise some form of negotiate/arbitrate mechanism similar to the role played by ACCC in the telecommunications field under Part XIC of the *Competition and Consumer Act 2010*.

⁴ <http://austlogistics.com.au/wp-content/uploads/2014/11/ALC-Submission.pdf>

⁵ Recommendation 8.1

Finally, ALC considers that any legislation required to be adopted by jurisdictions should not be adopted on a 'model legislation' basis but should (in the absence of a reference of powers to the Commonwealth, the most desirable model) use the 'national applied law legislation' along the lines of the Heavy Vehicle National Law.

This is because the model legislation approach can tolerate some jurisdictional variations, which is undesirable in a system that is designed to support a single national freight and supply chain, and particularly where there will be a single national economic regulator for the entire country.

ALC considers Queensland would be an appropriate host jurisdiction for the legislation. Having the responsibility of considering both amendments to the Heavy Vehicle National Law and this legislation would then give Queensland's Parliament the volume of legislation that would permit it and its parliamentary committees that scrutinise relevant legislation some degree of expertise in this area of the law.

Please contact me on 0418 627 995 or at Michael.kilgariff@austlogistics.com.au should you wish to discuss this matter.

Yours sincerely



MICHAEL KILGARIFF
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