



SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE

IMPORTANCE OF A VIABLE, SAFE, SUSTAINABLE AND EFFICIENT ROAD TRANSPORT INDUSTRY

AUSTRALIAN TRUCKING ASSOCIATION SUBMISSION 29 NOVEMBER 2019

1. About the Australian Trucking Association

The ATA was established 30 years ago, in 1989, to be the united voice of the 50,000 businesses and 200,000 people in the trucking industry, particularly on safety issues. The ATA's establishment was supported by both sides of politics.

One of the ATA's early achievements was the 1991 adoption of mandatory 100 km/h speed limiters for new trucks. The ATA's achievements with its member associations also include:

- higher vehicle safety standards generally, particularly with respect to braking (page 4)
- industry-led road safety campaigns (page 7)
- the establishment of the National Heavy Vehicle Regulator and, more recently, the addition of a primary safety duty to the Heavy Vehicle National Law (page 10)
- the TruckSafe safety accreditation program (page 11).

As the peak body representing the trucking industry, the ATA serves the critical purpose of providing the industry with a legitimate, recognised voice, sound research and evidence-based policy advocacy.

2. Introduction

In September 2019, the Senate referred the importance of a viable, safe, sustainable and efficient road transport industry to the Rural and Regional Affairs and Transport References Committee for inquiry and report by April 2020.

The ATA thanks the committee and particularly its Chair, Senator Glenn Sterle, for granting us an extension of time for this submission. The extension enabled us to consult with our members at our November 2019 General Council meeting.

The submission builds on the ATA's previous submissions and evidence to:

- the committee's inquiry into aspects of road safety in Australia
- the National Transport Commission's review of the Heavy Vehicle National Law and
- the Productivity Commission inquiry into the national transport regulatory reforms.

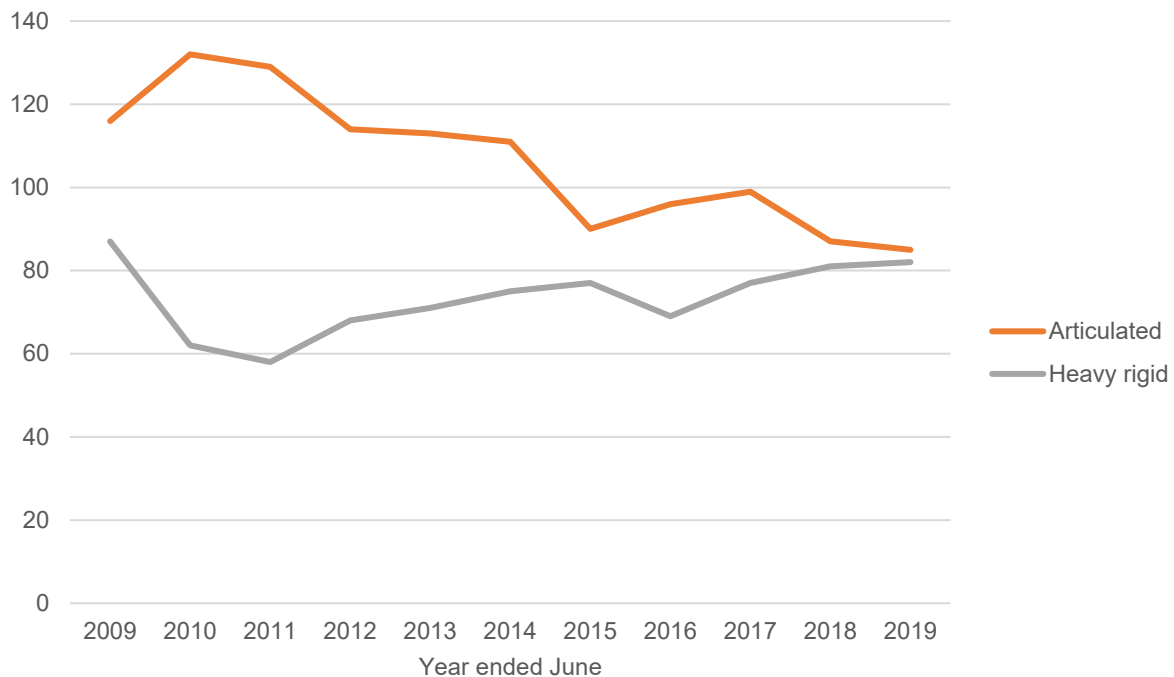
3. Boosting the industry's safety

The number of fatal and serious injury crashes involving trucks is unacceptable. The only acceptable number of these crashes is zero.

The trucking industry, drivers, governments and regulators have made progress in reducing the number of articulated truck crashes. As figure 1 shows, the number of fatal crashes involving articulated trucks shows a clear downward trend.

In contrast, the total number of fatal crashes involving heavy rigid trucks is increasing.

Figure 1: Fatal crashes involving trucks, Australia, 2009-2019



Source: BITRE

The ATA considers that the only effective way to continue improving road safety is to press on with the safe systems approach that was first adopted in the 2011-2020 National Road Safety Strategy.

The safe systems approach recognises that people using the road network will make mistakes and that the whole system needs to be more forgiving of errors.¹ The 2018 inquiry into the National Road Safety Strategy found that the overall strategy was sound, but that its implementation had failed.²

Within the safe systems framework, the ATA continues that urgent action is required on the following:

¹ Australian Transport Council, [National road safety strategy 2011-2020](#). ii.

² Woolley, J and J Crozier, [Inquiry into the national road safety strategy 2011-2020](#). September 2018. 6.

Building safer roads

Safer roads are one of the pillars of the safe systems approach. The road is a causation factor in about 30 per cent of all crashes and is a factor in the severity of 100 per cent of crashes.³

The Australian Government invests in roads under the *National Land Transport Act 2014*; however, safety is not a specific object of the Act.

Safety is not sufficiently prioritised in road spending, either. In its 2019 infrastructure audit, Infrastructure Australia called for:

- the identification, assessment and prioritisation of upgrades to high-risk sections of the transport network
- safety improvements to high-risk regional roads across Australia as a high priority initiative.⁴

The ATA accordingly recommends:

Recommendation 1

The *National Land Transport Act 2014* should be amended to include safety as a focus.

Recommendation 2

The Australian Government should change its approach to funding road projects to:

- require project assessments to use the willingness to pay approach to valuing the lives saved and injuries avoided from safety improvements
- prioritise funding for projects aimed at minimising road safety risks
- require the adoption of safe system principles for project design.

Truck rest areas

Truck rest areas enable drivers to rest so they are more alert and safer when driving.⁵

Austroads released new truck rest area guidelines in January 2019. The new guidelines specify that:

- detailed heavy vehicle rest areas strategies should be developed for major highways and significant freight routes.
- class 1 and 2 rest areas should be 70-100 kilometres apart; class 3 and 4 rest areas should be 35-50 kilometres apart, and class 5 rest areas should be 15-25 kilometres apart.

³ Austroads, [Road geometry for improved rural safety](#). Report AP-T295-15, 2015. 1.

⁴ Infrastructure Australia, [An assessment of Australia's future infrastructure needs: the Australian infrastructure audit 2019](#). June 2019. 310-311.

⁵ Austroads, [Guidelines for the provision of heavy vehicle rest area facilities](#), 2019, 7.

The guidelines also set out detailed considerations for the services that should be provided at each class of rest area.

The Australian Government invests in rest areas through the Heavy Vehicle Safety and Productivity Program (HVSP), but rest areas on the National Land Transport Network – Australia's busiest and most important freight corridors – are not eligible for funding.⁶

Additionally, there is no requirement for rest areas funded under the HVSP to meet any particular standard.

Recommendation 3

The guidelines for round 7 of the Heavy Vehicle Safety and Productivity Program should:

- allow rest areas on the National Land Transport Network to be funded
- require all projects funded under the program to meet the requirements of the Austroads heavy vehicle rest area guidelines.

Safer vehicles

During the last decade, the ATA has successfully campaigned for:

- front underrun protection (from 1 January 2011)
- mandatory ABS for new trucks and trailers (from 1 July 2014)
- mandatory electronic stability control for new prime movers and trailers (from 1 July 2019).

In addition to its advocacy efforts, the ATA publishes technical advisory procedures (TAPs) on behalf of the trucking industry, which provide non-binding advice about best practice.

This year, the ATA released the second edition of its TAP on side underrun protection devices, which reduce the chance of a cyclist or pedestrian falling under the wheels of a truck.⁷

The updated TAP explains how to design and install this essential safety equipment and includes guidance about how to fit the devices to prime movers and rigid trucks.

Autonomous emergency braking (AEBS)

Autonomous emergency braking systems (AEBS) provide truck drivers with a warning and then apply emergency braking if they detect an impending collision with a car, bus, truck or trailer in the same lane.

After years of advocacy by the ATA, DITCRD released a consultation RIS proposing to mandate AEBS for new trucks, together with the extension of mandatory ESC to new rigid trucks.

⁶ DIRD, Heavy vehicle safety and productivity program (HVSP): round six program guidelines. December 2017.

⁷.

⁷ ATA, [Side underrun protection technical advisory procedure](#). 2nd edition. October 2019.

According to the RIS, this option would:

- save 102 lives
- prevent 2,564 serious injuries and
- prevent 7,017 minor injuries.

The option would deliver a BCR of between 1.7 (likely case) and 2.5 (best case).⁸

The ATA strongly supports the adoption of mandatory AEBS for all new trucks and the extension of mandatory ESC to new rigid trucks.

We have proposed, however, that the implementation timeframe for AEBS for prime movers should be extended by a year. The extension would enable DITCRD and industry to validate the effectiveness of AEBS when it is fitted to multicomination vehicles and used on unpaved roads.⁹

Recommendation 4

The Australian Government should mandate AEBS for all new trucks and extend the ESC requirement to all new rigid trucks.

The requirements should come into force in November 2020 for new model rigid trucks and November 2022 for new rigid trucks, with the AEBS requirement for prime movers to come into force one year after each of these dates.

Mandatory safety standards for construction trucks

The infrastructure boom in Australia's cities has resulted in a dramatic increase in construction truck traffic.

The maintenance of construction trucks can be poor. A standard combination used in the construction sector is a truck and dog: a rigid truck pulling a trailer with two separate axle groups. NSW Government figures show that **43 per cent** of the truck and dog combinations examined in Sydney in 2018 were non-compliant with safety standards, compared to a statewide average of **14 per cent**.¹⁰

Some major construction clients require the trucks used by their contractors to meet additional safety standards beyond those required by law. For example, the Melbourne Metro Tunnel project requires its contractors' trucks to have:

- side underrun protection
- eliminated or minimised front, rear and side blind spots
- an audible means for warning other road users of a left manoeuvre
- prominent signage.¹¹

⁸ DITCRD, [Reducing heavy vehicle rear impact crashes: autonomous emergency braking](#). Consultation regulation impact statement, August 2019. 44.

⁹ ATA, [Reducing heavy vehicle rear impact crashes: autonomous emergency braking](#). Submission to DITCRD. October 2019. 4.

¹⁰ Weeks, R. "Risk-based heavy vehicle compliance." Presentation to the ATA Technology and Maintenance Conference 2019, 15 October 2019.

¹¹ Hayden B. "Raising the Bar for Public Safety." Presentation to the ATA Technology and Maintenance Conference 2019, 15 October 2019.

The National Partnership Agreement on Land Transport Infrastructure Projects does not impose a similar requirement on Australian Government funded infrastructure projects.

Recommendation 5

The National Partnership Agreement on Land Transport Infrastructure Projects should require the states to ensure that:

- construction truck operators working on Australian Government funded infrastructure projects are certified under the ATA's TruckSafe scheme or another approved certification scheme
- construction trucks meet best practice vehicle safety standards.

Safe people

Truck driver licensing and training

In its road safety inquiry, the committee heard compelling evidence from industry stakeholders, including the ATA, about the quality of truck driver training and licensing. The ATA told the committee that:

...we have situations where, essentially, people wanting a heavy-vehicle licence are promised it in a day, or promised that if they don't pass on the first attempt they'll be able to continue trying until they get it.

We have situations where people are getting licences, but they don't end up understanding the broader safety context they have to work in. They don't have an understanding of load restraint or fatigue or chain of responsibility.

So we end up with badly undertrained drivers emerging with truck driver licences, but they do not have the skills they need to work in the industry safely. There are some great trainers out there—I already mentioned DECA as one of them—but many others train to a price, or offer guarantees, and the quality can't be guaranteed.¹²

The committee noted, approvingly, that Austroads had started a review of the heavy vehicle competency framework.

The Austroads review was released in May 2018.¹³ The review confirmed that the current truck driver licensing system is inadequate.

For example, the review assessed the heavy rigid licensing unit (TLILIC2016) against ten safety risks that the review team identified. They found that the unit failed to address six out of the ten safety risks and only partly addressed the other four.

¹² [Evidence](#) to the Senate Rural and Regional Affairs and Transport References Committee, Parliament of Australia, Canberra, 8 August 2017. (Bill McKinley, Chief of Staff)

¹³ Oswin, J and G Cotton. [Review of the national heavy vehicle driver competency framework](#). Austroads report AP-R564-18. May 2018.

In September 2019, Austroads announced that it is considering:

- strengthening the licence to drive units of competency
- developing standardised training and assessment material
- considering minimum supervised hours of experience as part of heavy vehicle licensing.¹⁴

While the ATA welcomes this process, it shows that there has been no improvement in the truck driver licensing system since the committee's last road safety report.

Recommendation 6

The review of the heavy vehicle driver competency framework and licensing arrangements should be completed and the results implemented as a priority.

Car driver licensing and education

NTI research shows that 83 per cent of the fatal multi-vehicle crashes involving trucks in its insured fleet are not the fault of the truck driver.¹⁵

Despite this worrying figure, learning to share the road with trucks is not a significant consideration in Australian car driver education. ATA focus group research shows that young drivers recognise this gap in their driver education and want it fixed.

The ATA has run car driver education programs throughout our history. This month, we launched our latest safety education program, developed with funding from the Australian Government and Australia Post and with the ongoing support of our Foundation Sponsors, BP, NTI and Volvo Trucks.

The new campaign and education trailer, SafeT360, is based on peer reviewed safety communication research.

It will contribute to future research and safety programs everywhere: it is designed so researchers can follow up on its effectiveness and develop initiatives aimed at its 16-25 year old target public.

SafeT360 uses virtual reality to deliver four critical road safety messages:

- Don't cut in front of trucks
- Don't overtake turning trucks
- Be aware of truck blind spots
- Don't be distracted by your mobile phone.

Figure 2 shows students at Karabar High School in Queanbeyan, NSW, experiencing SafeT360.

¹⁴ Austroads. [Review of the national framework for heavy vehicle driver competency – phase 2](#). 9 September 2019.

¹⁵ NTI, [Major accident investigation report 2019: covering major accidents in 2017](#). 23

Figure 2: SafeT360 virtual reality driver education, November 2019



We regard safety education as a core part of our role. But governments need to do more as well.

Recommendation 7

Governments should deliver improved learner driver education about how to share the road with trucks safely.

Fatigue regulation

In the eastern states and South Australia, truck driver fatigue is regulated under a co-operative national scheme: the Heavy Vehicle National Law (HVNL).

Amendments to the law are agreed by a ministerial council chaired by the Australian Government transport minister, before being introduced into the Queensland Parliament.

The existing fatigue provisions in the HVNL are overly prescriptive. The record keeping requirements are ludicrous; the penalties for trivial paperwork breaches are too high.

The National Transport Commission (NTC) is reviewing the HVNL, including the fatigue provisions. The ATA submission in response to the NTC's fatigue issues paper proposes that the law should provide regulated businesses with two fatigue management options:

- a new, performance-based framework that would enable operators to manage fatigue as a risk rather than counting time, including by adopting new technology and proven fatigue management systems.

This framework would be backed by certification and auditing, which would be delivered by certification schemes regulated, but not run by, the NHVR.

Businesses and drivers working under the framework would not be subject to the prescriptive fatigue rules, including the requirement for drivers to maintain work diaries – a massive reduction in unnecessary regulatory paperwork.

- a simplified system of prescriptive fatigue rules, to support businesses whose size or risk profile did not warrant a more complex approach.

The new system would include simpler but more flexible time counting rules and a much simpler work diary. A 'substantial compliance' provision would ensure that drivers could not be charged for mistakes that had no fatigue implications.

The new system would bring 4.5-12 tonne trucks into the scope of the HVNL fatigue requirements.

The ATA has long been concerned about fitness for duty and driver health. We have proposed that all commercial heavy vehicle drivers should have regular medicals against upgraded fitness for duty standards.

The ATA's recommended approach would involve fundamental changes to enforcement, including a dramatic reduction in the penalties imposed on drivers for prescriptive work and rest hour and record-keeping offences.¹⁶

Recommendation 8

As the chair of the Transport and Infrastructure Council, the Australian Government should urge the HVNL states to adopt the ATA's recommended approach to regulating driver fatigue.

Fatigue, distraction and other supporting technology

An increasing number of trucking operators are implementing fatigue and distraction technology in their businesses. The safety benefits can be very high, as Toll Group's submission to this inquiry shows.¹⁷

The ATA supports the broadest implementation of fatigue, distraction and other supporting technology by 2025, providing the following conditions are met:

- the successful implementation of evolving fatigue and detection devices that have proven benefits and are implemented as part of a system to improve safety outcomes
- a further review and decision following the release of the HVNL review policy paper
- regulatory changes including legal and financial incentives for uptake to ensure adoption is low cost, or cost neutral, removing barriers for small operators to participate.

¹⁶ ATA, [Effective fatigue management](#). Submission to the NTC. 16 August 2019. 1-2.

¹⁷ Toll Group, [Submission: Inquiry into the importance of a viable, safe, sustainable and efficient road transport industry](#). 8 November 2019. 18.

Safe systems and companies

Extending the chain of responsibility concept

Following extensive lobbying by the ATA, chapter 1A of the HVNL came into force on 1 October 2018. It introduces WHS primary duty and executive officer due diligence concepts into the road transport law; those primary duties and obligations apply to all the listed businesses and individuals in what is called **the chain of responsibility**.¹⁸

The chain of responsibility concept recognises that trucking businesses and owner drivers are affected by the actions of their customers or prime contractors.

The ATA considers that the prescriptive list of parties in the chain of responsibility should be replaced with an expanded list of non-exhaustive examples. As the NTC pointed out in 2014, a fundamental problem with the prescriptive approach to CoR is that if a party or a party's responsibility cannot be identified or exactly described, the law will not recognise them in the chain.¹⁹

As specific examples:

- In its submission to the NTC on effluent and load restraint, ATA member association ALRTA noted that government policy makers could not agree on whether livestock effluent was already covered by the list of chain of responsibility parties, even though all jurisdictions agreed in principle that the matter should be covered by the HVNL.²⁰
- The ATA has argued that online freight matching platforms are not adequately covered by the prescriptive list of parties. Our concern is all the greater because of the past conduct of online rideshare platforms and their use of gamification to encourage drivers to work longer.²¹

In its submission to the Victorian on-demand workforce inquiry, ATA member association NatRoad argued that online freight platforms should be covered by the HVNL to the extent they have influence or control over the freight task. This would distinguish a platform that is a marketing service from one that participates in transport transactions.²²

Recommendation 9

The prescriptive list of chain of responsibility parties in the HVNL should be replaced by a non-exhaustive list of examples showing that online freight matching platforms are, to the extent that they have influence or control over the freight task, subject to the duties under Chapter 1A of the Law.

¹⁸ See HVNL s 5, definition of 'party in the chain of responsibility.'

¹⁹ NTC, [Chain of responsibility: duties review discussion paper](#). November 2014. 15

²⁰ ALRTA, [Submission in response to NTC discussion paper: effluent and load restraint](#). July 2018, 10.

²¹ Scheiber, N. "How Uber uses psychological tricks to push its drivers' buttons," in [New York Times interactive](#), 2 April 2017.

²² NatRoad, [Submission to the inquiry into the Victorian on-demand workforce](#). February 2019. [15]-[17].

TruckSafe and safety assurance

The ATA runs the industry's safety certification program, TruckSafe. Businesses in TruckSafe are independently audited against higher standards than those required by law.

The NHVR also runs its own certification scheme, the National Heavy Vehicle Accreditation Scheme (NHVAS). Businesses in NHVAS have access to flexible fatigue management arrangements (BFM and AFM). In some states, trucks accredited under NHVAS do not have to undergo yearly registration inspections.

But the Trucksafe system is stronger and more robust than NHVAS.

TruckSafe has strengthened its accreditation standards repeatedly since it was established. In contrast, the NHVAS modules do not reflect the current provisions of the law.

NHVAS does not cover, for example:

- fatigue management under standard hours
- speed management
- speed limiter tampering
- mass management for vehicles operating at GML
- management of vehicle dimensions or
- load restraint.

NHVAS accreditation does not deliver compliance with the safety duties in Chapter 1A of the HVNL, with the extraordinary result that the NHVR is operating a scheme that does not meet the requirements of its own Law.

The TruckSafe audit process is notable for its robustness.

- TruckSafe assigns and pays its auditors, so there is no financial relationship between auditors and the companies they audit
- TruckSafe audits are reviewed by the independent Trucksafe Industry Accreditation Council (TIAC), which sits outside the TruckSafe management structure.

The Medlock review of heavy vehicle safety accreditation schemes noted in 2018 that operators who were accredited under both TruckSafe and NHVAS found the TruckSafe audits to be, at times, more rigorous.²³

Because TruckSafe certified businesses do not have access to the alternative compliance arrangements, 90 per cent are also accredited under NHVAS – an unnecessary compliance burden that adds cost without improving safety. It also breaches governments' competition policy obligations.²⁴

The ATA's submission about assurance models to the HVNL review²⁵ proposes that the NHVR's role with respect to safety assurance should be changed so it:

- regulates certification scheme providers and auditors but does not run one itself
- approves certified operators to enter the alternative compliance system.

²³ Fellows Medlock and Associates. [Analysis of heavy vehicle safety accreditation schemes in Australia](#). Report prepared for the NHVR. February 2018, 50.

²⁴ ATA, [Review of the Australian Government's competitive neutrality policy](#). April 2017. 3.

²⁵ ATA, [Assurance models](#). Submission to the NTC. 23 October 2019.

Approved certification schemes would be responsible for maintaining their own standards and business rules, as well as certifying operators against their standards.

Under the ATA's model:

- All businesses certified by an approved scheme would be deemed to comply with the safety duties under the HVNL.
- Customers and other chain parties, including prime contractors, would be able to rely on a trucking business's certification as evidence that the business was compliant with its safety duties and obligations. The customer would be able to focus on meeting its own obligations rather than second guessing the trucking operator's systems.
- Certified businesses validated by the NHVR would be able to access the alternative fatigue management regime discussed on page 8 of this submission.
- Certified and validated businesses would be exempt from yearly vehicle inspections in NSW, Queensland and South Australia.
- Certified and validated businesses could be subject to a lower level of roadside enforcement
- Certified and validated businesses would be pre-credentialled for the current NHVAS access arrangements and mass concessions.

Recommendation 10

The HVNL should be amended so that:

- the NHVR regulates, but does not provide, certification services for trucking businesses.
- businesses in certification schemes are deemed to comply with their safety duties under the law
- customers and other chain parties, including prime contractors, can rely on a trucking business's certification as evidence that the business is compliant with its safety duties
- certified businesses validated for alternative compliance have access to alternative compliance arrangements.

No-blame safety investigations

Presently, road crashes are investigated by the police and the coronial system. While this system may meet the needs of the legal and insurance systems, it is not achieving the reduction in road crashes that governments should be seeking.

In contrast, the Australian Transport Safety Bureau (ATSB) conducts independent investigations of transport crashes and other safety occurrences in the aviation, marine and rail modes of transport. Lessons arising from ATSB investigations are used to reduce the risk of future accidents and incidents through the implementation of safety action by industry and the Government.

The ATSB also seeks to improve safety and public confidence in those transport modes by pursuing excellence in safety data and research and fostering safety awareness, in addition to independent investigation of accidents.

The ATSB is an independent statutory agency that is separated from transport regulators, policy makers and service providers. It is not a function of the ATSB to apportion blame or to provide a means for determining liability.

As stated by the ATSB, no blame does not mean no responsibility. It means that disciplinary action and criminal or liability assessment are not part of an ATSB safety investigation and should, if necessary, be progressed through separate parallel processes.

Introducing ATSB investigations of road crashes involving trucks would supplement, not replace, existing police and coronial investigations and would provide valuable insights and recommendations for improving safety.

That's why the ATA has long argued for the role of the ATSB to be extended to include crashes involving heavy vehicles; the Productivity Commission's draft report on the national transport regulatory reforms includes a similar recommendation.²⁶

Recommendation 11

The role of the Australian Transport Safety Bureau should be extended so it can carry out independent, no-blame, safety investigations of road crashes involving heavy vehicles.

4. Industry productivity and viability

The HVNL has failed to deliver the productivity gains that were predicted when it was developed.

In 2011, it was predicted that the law would deliver up to \$12.4 billion in economic benefits.²⁷ Figure 3 shows the reality. Research by Deloitte Access Economics shows the productivity of the transport, postal and warehousing sector has fallen steadily since the law came into force in 2014.²⁸

The Productivity Commission has also concluded that the productivity gains from the reforms have been far less than the original estimates.²⁹

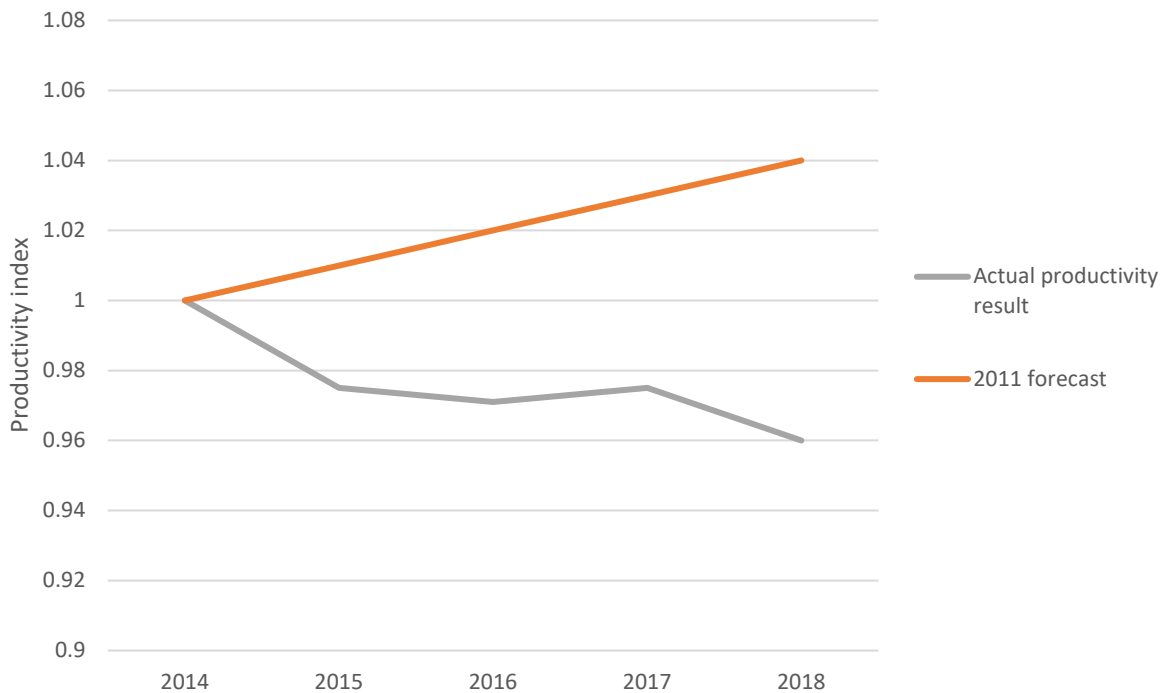
²⁶ Productivity Commission, [National transport regulatory reform](#). Draft report, November 2019. 322.

²⁷ NTC, [Heavy Vehicle National Law regulation impact statement](#). September 2011. 16

²⁸ Deloitte Access Economics, [Economic benefits of improved regulation in the Australian trucking industry](#). Report commissioned by the ATA, March 2019. 21.

²⁹ Productivity Commission, November 2019. 173.

Figure 3: Forecast and actual changes to industry productivity, 2014-2018



Source: Deloitte Access Economics.

Encouraging the use of high productivity freight vehicles

Better access for more productive vehicles, to move more freight on less trucks, is central to increasing the industry's productivity. Of the predicted economic gains from the introduction of the HVNL, most of the benefits were to be made in gains from harmonising restricted access vehicles, higher mass limits and intelligent access program regulation.³⁰

As stated by the NTC at the time, implicit in the benefit calculation was the assumption that the new decision-making framework would promote access.³¹ But the gains have not been achieved.

Infrastructure Australia reports that despite the benefits from using High Productivity Freight Vehicles (HPFVs), their use has been limited. Restricting the use of HPFVs locks in high freight costs for businesses and consumers, and limit benefits to road safety, air pollution and amenity.³²

Ultimately better access and increased productivity will require reforms to:

- access decisions under the Heavy Vehicle National Law
- the supply-side provision of road funding, including by the Australian Government
- identifying, planning and delivering road networks for High Productivity Freight Vehicles.

³⁰ Deloitte Access Economics, March 2019. 17.

³¹ NTC, September 2011. 57.

³² Infrastructure Australia, [2019 Australian infrastructure audit](#), August 2019. 344, 345.

The ATA made detailed recommendations about these reforms in our submissions in response to the HVNL review issues paper on easy access to suitable routes and the 2019 Australian Infrastructure Audit.^{33,34}

These recommendations include:

- remaking the current guidelines about access decisions as legislative instruments under the HVNL. All persons exercising powers under the HVNL on access would be required to comply with these enforceable standards
- implementing an external, merits-based review of access decisions, extending the applicability of authorisation and acknowledging precedents in access decisions.
- expanding as-of-right access
- developing national service level standards for roads with a focus on providing heavy vehicle access and rest areas
- transitioning the National Land Transport Network to a High Productivity Freight Vehicle Network.

Recommendation 12

The Australian Government should support reforms to improve heavy vehicle access, supply-side road funding reforms and a national High Productivity Freight Vehicle Network.

Payment terms

The vast majority of the costs incurred by small trucking businesses must be met before they can bill their customers. These include wages or personal living costs, fuel, tyres, insurance, finance costs, registration and maintenance. Small trucking businesses are therefore vulnerable to adverse changes in their payment terms, and often have little capacity to negotiate them with large customers.

The ATA has advocated developing a **mandatory code for the trucking industry under Part IVB of the Competition and Consumer Act (CCA)** to address the payment terms issues facing small trucking businesses.

The provisions of existing industry codes show it would be possible to construct a code covering payment terms for these businesses, which could for example include payment times – recommended as no more than five days from the date an electronic invoice is issued, or 20 days where e-invoicing is not used³⁵ – a prohibition on set offs and pay when paid arrangements, and alternative dispute resolution.

It would also be necessary to include special rules covering recipient created tax invoices (RCTIs), to prevent customers from delaying the creation of these invoices to avoid triggering the five or 20-day period.

The mandatory code should also apply to customer and suppliers that attempt to incorporate terms and conditions into compliance systems. These can provide limited to no ability for a

³³ ATA, [Easy access to suitable routes](#). Submission to the NTC. August 2019.

³⁴ ATA, [2019 Australian infrastructure audit](#). Submission to Infrastructure Australia. November 2019.

³⁵ Consistent with the [new Australian Government payment standards](#).

transport operator to negotiate the terms and can often include oppressive payment terms and conditions.

The systems can also impose deadlines for completion. Where these deadlines are not met the operator is removed from the site or not paid. This can result in trucking operators having to run a dedicated compliance system for each client, based on each client's IT requirements. This imposes both direct and indirect costs on transport operators.

Recommendation 13

The Australian Government should implement a mandatory payments code for the trucking industry under Part IVB of the *Competition and Consumer Act* to address the payment terms issues facing small trucking businesses, pay when paid arrangements, alternative dispute resolution and customer terms and conditions for compliance systems.

5. Greenhouse gas emissions and environmental standards

The ATA has consistently argued that governments should implement practical, cost effective emission reduction opportunities for heavy vehicles, including a focus on improving productivity.

This was part of the ATA's advocacy on the creation of the ERF,³⁶ reviews of the ERF, consideration of the Euro VI emissions standard and past climate change reviews.³⁷

The Australian Government's Emissions Reduction Fund (ERF) has not driven reductions in transport emissions in the road freight sector, because it fails to support the increased uptake of everyday business practices that would move more freight with lower emissions.

Additionally, the safeguard mechanism establishes a high regulatory burden for affected businesses with limited, if any, impact on transport emissions.

There are, however, policy reforms available to governments to reduce greenhouse gas emissions and the environmental impact of road freight transport. These are set out in the ATA's 2019 submissions to the carbon abatement expert panel,³⁸ and summarised in the recommendation below.

Euro VI emission standards

The Commonwealth regulates noxious emissions from on-road trucks through the Australian Design Rules (ADRs). These follow the European (Euro) standards in regulating carbon monoxide, hydrocarbons, particulates and NO_x emitted by vehicles. Reducing noxious vehicle emissions is primarily an issue of urban air quality. The Euro standards do not regulate greenhouse gas emissions.

³⁶ ATA, [Emissions reduction fund](#). Submission to the Department of the Environment. November 2013.

³⁷ ATA, [Review of climate change policies](#). Submission to the Minister for Environment and Energy. May 2017.

³⁸ ATA, [Carbon abatement](#). Submission to the expert panel on low cost abatement. October 2019.

The current mandated standard is Euro V, with both Euro V and Euro VI trucks available on the Australian market. The reduction in emission limits has been significant over time, although the amount of reduction has become smaller for each change to the ADRs.

In 2017, the Government released a Regulation Impact Statement that recommended mandating Euro VI for trucks. The RIS did not meet the Government's own RIS requirements.³⁹

More recently, the Strategic Vehicle Safety and Environment Group of government officials and peak body representatives considered a proposal that would involve the NHVR and state governments offering an additional axle mass limit allowance for vehicles that meet the Euro VI standard.

In the ATA's view, government policies should not single out Euro VI trucks for a competitive advantage. Any additional axle mass limit should apply to Euro V trucks as well as Euro VI.

Recommendation 14

The Australian Government should:

- support improved access for High Productivity Freight Vehicles, which move more freight with less diesel
- amend the vehicle design standards that prevent more fuel-efficient solutions from being implemented by industry
- implement measures to encourage the purchase of new heavy vehicles
- ensure that any additional mass allowance is applied to Euro V as well as Euro VI trucks.

Hydrogen as an alternative fuel

The ATA has supported further assessing the barriers and opportunities for hydrogen-fuelled vehicles and the need to address the commercial availability of hydrogen-fuelled vehicles and refuelling infrastructure in its submissions in response to the National Hydrogen Strategy Issues Paper⁴⁰ and the Liquid Fuel Security Review.⁴¹

Electric vehicles

Electric vehicles offer significant potential for reducing transport emissions, dependent on the emissions profile of the energy sector. For Australia's trucking industry, the first applications of electric vehicles will be rigid trucks in urban areas.

For example, the City of Casey will add several new electric trucks to the waste servicing fleet at WM Waste Management as part of a new waste contract.⁴²

³⁹ ATA, [Vehicle emissions standards for cleaner air: draft regulation impact statement](#). Submission to DIRD. March 2017

⁴⁰ ATA, [National hydrogen strategy issues papers](#). Submission to the COAG Energy Council. July 2019.

⁴¹ ATA, [Liquid fuel security review – interim report](#). Submission to DoEE. May 2019.

⁴² Prime Mover, [Electric waste trucks arrive in Casey](#). 29 May 2019.

The electric vehicle focus of the Australian Renewable Energy Agency (ARENA) has seen current funding go to projects focused on electric vehicle charging and light passenger and commercial vehicles.

There is no current funding for advancing electric heavy vehicles, despite the potential greenhouse and urban air quality benefits.⁴³

Recommendation 15

The Australian Renewable Energy Agency should expand its funding for electric vehicle projects to include support heavy electric vehicles, especially in urban applications.

6. Consultation arrangements

Paragraph (h) of the committee's terms of reference require it to inquire and report on the importance of establishing a formal consultative relationship between the road transport industry and all levels of government in Australia.

The ATA engages in extensive, ongoing consultations with parliamentarians, government agencies and regulators, including through the recent establishment of the Parliamentary Friends of Trucking, Trailers, Transport and Logistics.

We engage frequently with our members and the broader trucking industry.

Using the ATA General Council as a consultation forum

The ATA's policies are formally determined by our General Council, which includes representatives of the ATA's member associations and corporate members, and directly elected representatives of owner-drivers and small trucking businesses. The council meets quarterly, with three meetings per year held in Canberra.

The ATA's General Council meeting are an ideal opportunity for governments and regulators to consult with industry.

The General Council is inclusive; its members represent the grass roots of the industry; they have vast experience. Its recent successes include reaching consolidated industry positions on the re-establishment of the RSRT or any similar body (page 21) and the widespread implementation of fatigue, distraction and other supporting technology (page 9).

The potential establishment of a parallel, government-run consultation body would:

- result in a duplication of effort
- dilute the industry's safety message and
- enable future governments and regulators to pick and choose the advice they wish to receive.

Overall, this would result in poorer road safety outcomes.

⁴³ Australian Renewable Energy Agency, [Electric vehicle projects](#), accessed 28 November 2019.

Recommendation 16

The Australian Government, government departments and regulators should prioritise consulting with industry through the ATA General Council.

Consulting with small business operators and owner drivers

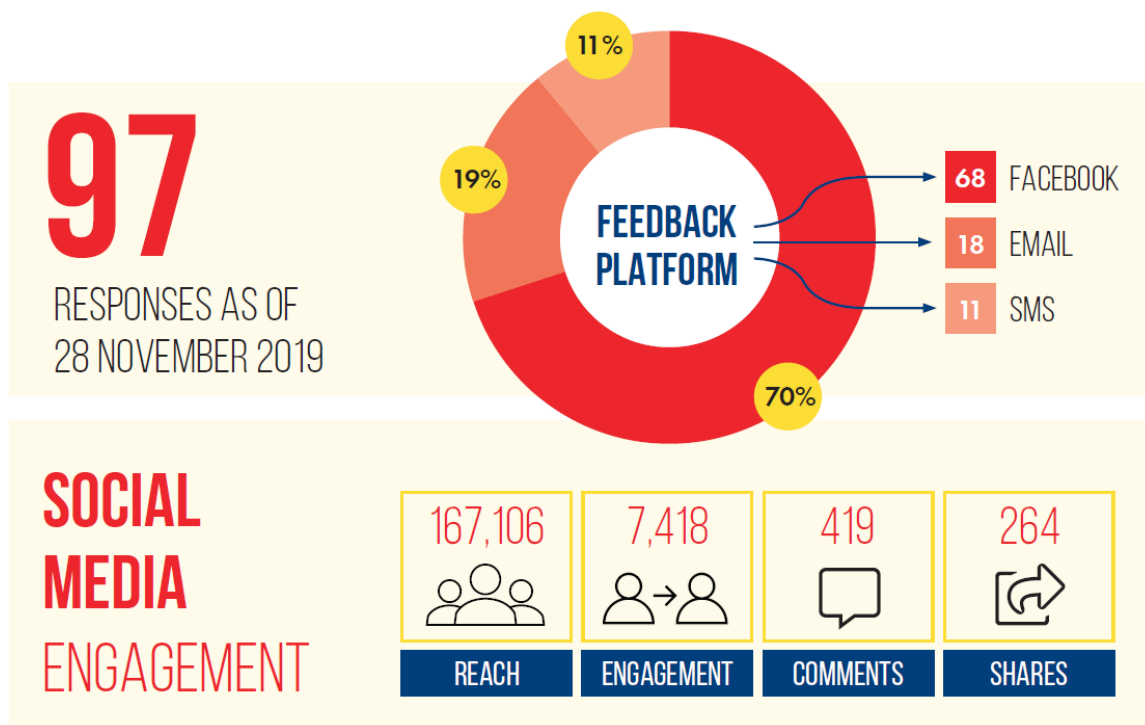
All too often, government consultation strategies assume that business owners can take time off work and travel to a capital city for a day long consultation meeting.

Attempts to make these meetings more useful and interesting – for example, by splitting participants into breakout groups – can make the meetings less, not more, representative, because those approaches preclude teleconferencing or webconferencing.

The ATA recognised these issues when we launched our joint 'Heavy Vehicle Law – Have Your Say' campaign with national road transport newspaper *Big Rigs*. The campaign is designed to provide a platform for Australian truck drivers to share their thoughts on the HVNL review. The results so far are summarised in figure 4.

The NTC has also launched its own online conversation about the HVNL review. Other government agencies should emulate its approach.

Figure 4: Results of the ATA-Big Rigs HVNL review have your say campaign



Recommendation 17

Government organisations should ensure that teleconferencing and webconferencing options are routinely available for consultation meetings.

Recommendation 18

Government organisations should explore additional digital options for consulting with owner drivers and small businesses.

7. Policies that should not be pursued further

Operator licensing

Until the 1950s, the state governments used bans and licensing systems to restrict road transport and protect their railway systems. Sir Reginald Ansett famously went into the airline business because aviation licensing was less restrictive than the Victorian Government's approach to road transport operators.⁴⁴

The state government restrictions continued until 1954, when the Privy Council ruled that the NSW licensing system could not validly apply to persons and vehicles operating in the course of interstate trade.⁴⁵

The *Interstate Road Transport Act 1985* (Cth) included provisions that would have enabled the Commonwealth to establish a licensing system for interstate road transport operators; however, the provisions were never proclaimed.⁴⁶ The provisions were repealed with the rest of the Act in 2018.

The low barriers to entry in the trucking industry are often said to be a justification for reintroducing operator licensing, with proponents pointing to the way other transport modes are regulated or overseas models.

In 2003, the National Road Transport Commission (NRTC) compared what was then a new approach to compliance – chain of responsibility – to operator licensing.

The NRTC rejected operator licensing in favour of chain of responsibility. It concluded that operator licensing was anti-competitive, heavy handed and risked regulatory capture, where regulatory decisions favour incumbents and not the public as a whole.⁴⁷

The international history of operator licensing illustrates its anti-competitive roots.

In New Zealand, operator licensing originated with the *Transport Licensing Act 1931*, which was designed to protect government owned railways from competition. It included limits on the distance that freight could be moved by road.

⁴⁴ Bond, K, [2002 Sir Norman Brearley Oration](#). Delivered in Perth, 28 August 2002.

⁴⁵ "The Transport Cases and the Privy Council: Hughes and Vale Pty Ltd v NSW" Sydney Law Review. No 38 (1954). 429. [Link](#)

⁴⁶ *Interstate Road Transport Act 1985* (Cth). Part V (ss 24-35).

⁴⁷ NRTC, [Road Transport Reform \(Compliance and Enforcement\) Bill regulatory impact statement](#). November 2003, 50.

In the United Kingdom, operator licensing is established under the *Goods Vehicles (Licensing of Operators) Act 1995*, which consolidated regulations introduced in 1984 (in part to implement obligations under the European common transport policy) and Part V of the *Transport Act 1968*. The 1968 legislation set out a system of quantity and quality licensing that aimed to maximise the use of rail for freight.⁴⁸

The ATA agrees with the NRTC's findings. Operator licensing should not be considered further.

The Road Safety Remuneration Tribunal

Parliament repealed the *Road Safety Remuneration Act* in 2016, following an industry campaign and the release of independent reports by Jaguar Consulting and PricewaterhouseCoopers.

The PwC report concluded that the two orders issued by the Road Safety Remuneration Tribunal would result in a net cost to the economy of more than \$2 billion in NPV terms. The report found that the benefit cost ratio of the orders – whether taken singly or together – was less than one.⁴⁹

In terms of safety, the report concluded:

- there was not enough evidence to conclusively prove that the 2014 Road Transport Order had an impact on safety outcomes, given the multiple causal factors affecting road safety.⁵⁰
- few stakeholders, either in discussions or submissions to the review, were convinced the road safety remuneration system, including the RSRT's 2016 Payments Order, would have a substantial safety impact in the future.⁵¹

While the ATA agrees that everyone in the industry should be paid sustainably and promptly, the findings of the PwC report show that statutory price fixing is not a solution.

The industry's safety issues are best addressed through practical measures such as the ones recommended in this submission.

⁴⁸ United Kingdom, *Parliamentary Debates*, House of Lords, 11 June 1968, [vol 293, col 17 & 18 \(Lord Shepherd\)](#).

⁴⁹ PricewaterhouseCoopers, [Review of the road safety remuneration system: final report](#). January 2016. iv-v.

⁵⁰ PricewaterhouseCoopers, January 2016, 37.

⁵¹ PricewaterhouseCoopers, January 2016, 42.