

IN-DG-C-00074.01

2 May 2008

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Chemical and Plastics Regulation  
Productivity Commission  
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Dear Sir

### Chemicals and Plastics Regulation Draft Report Submission

The National Transport Commission (“NTC”) would like to make the following comments in response to the Draft Report on Chemicals and Plastics Regulation (“Draft Report”). Our comments directly respond to Chapter 7 of the Draft Report, and the recommendations made therein, although the points raised may have relevance to discussions elsewhere in the Draft Report.

The Draft Report proposes (Draft Recommendation 7.4) that the Australian Dangerous Goods Code 7<sup>th</sup> Edition (“ADG7”) be made available free on the internet, and avoidable cost for hard copies. The NTC does not have any objection to this draft recommendation in principle, but notes that in practice the power to give effect to this recommendation primarily lies with the Commonwealth (given copyright is vested in the Crown in the right of the Commonwealth).

However, to waive the purchase price would effectively result in the imposition of an immediate charge on the NTC (which would likely exceed \$300,000) which has previously been approved and funded to schedule parts of its reform program on the assumption these monies would be recoverable. The authorisation of the relevant State and Territory Ministers and the NTC’s Commissioners would accordingly be required.

The NTC has also contracted with a supplier for the storage, distribution and sale of the Code. The recommendation, if pursued in its current terms, *may* place the NTC in breach of its obligations in this respect. Advice is currently being sought on this matter.

Draft Recommendation 7.1 proposes that the NTC undertake a transparent review of the implementation of ADG 7 and associated legislation and regulation. This is a standard practice conducted by the NTC following implementation of reforms, and would in the usual course of events, take place 12 months subsequent to implementation.

Draft Recommendation 7.2 states that “in light of the strong governance arrangements for implementing national transport policy... the responsibility for policy development and implementation ... should remain with the NTC”. The NTC would submit that this draft recommendation emphasises the procedural strength and capacity of governance arrangements of transport reform at the expense of the substance of the subject matter.

In other words, although ADG7 regulates the transport of dangerous goods, the substance of the obligations contained within the code relate to workplace based practices, and the majority of duties are satisfied largely before the actual process of transport itself commences. On this basis, the NTC would argue that the policy development and implementation function as it currently stands is inefficient and inappropriately located.

An example of an inefficiency is reflected in the administrative arrangements whereby the Competent Authorities that administer the Code and associated legislation and regulations are non-transport agencies, other than in Queensland. The practical impact of this is that the regulatory expertise required lies with bodies other than those making policy.

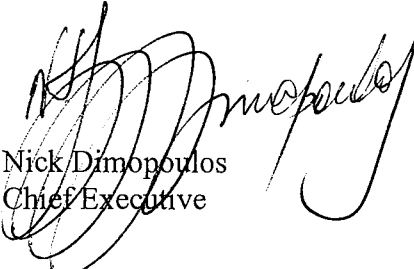
One method of gauging the appropriateness of the current arrangements is to examine relative stakeholder interest. The Draft Report cites as an argument in favour of the current arrangements the strong consultative processes and industry involvement. However examination of the list of entities that made submissions to the Draft Report itself reveals that none of these parties are significant stakeholders in transportation reform.

The corollary of this is also that mainstream workplace health and safety policy development and implementation processes that also apply to dangerous goods are compromised, as the development and decision making processes behind ADG7 and its supporting legislative framework is removed from this sphere.

We believe that the relocation of responsibilities for maintenance of the Code and supporting legislative arrangements to the Workplace Relations Ministerial Council would enable greater regulatory efficiencies, which in turn will lead to lower compliance costs to industry and better safety outcomes for the community as a whole.

Should you wish to discuss this matter any further, please contact Mr Tim Eaton, General Manager, Safety and Environment on (03) 9236 5025.

Yours sincerely,



Nick Dimopoulos  
Chief Executive