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20 March 2008

Mr Mike Woods
Commissioner
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Dear Mr Woods

Annual Review of Regulatory Burdens on Business – Manufacturing and Distributive Trades

This submission outlines the development of Performance Based Standards (PBS) for heavy vehicles in response to the Productivity Commission's (the Commission) Annual Review of Regulatory Burdens on Business – Manufacturing and Distributive Trades circulated for comment in February 2008. It seeks to summarise the work of the National Transport Commission (NTC) in this area, which has the potential to mitigate many of the concerns that may be raised by industry.

The NTC is an independent agency, advising all Governments with a focus on the review of transport policy and regulation as a means of increasing productivity, safety, efficiency and environmental performance. Within this context, it is timely therefore to advise the Commission of ongoing reform work in PBS vehicle regulation consistent with a previous NTC submission to the Commission on this issue in 2006.

We appreciate the opportunity to comment on this important topic, and believe that there are a number of opportunities for productivity reform of the current system in heavy vehicle regulation. In particular, we believe that there is potential for regulatory harmonisation across jurisdictions to capture productivity gains for industry, government and the community, decrease inflation, as well as the potential to improve safety and benefit the environment.

The NTC would also like to extend the offer for any further verbal briefing you believe may be necessary to elaborate on the contents of the submission.

Yours sincerely

Nick Dimopoulos
Chief Executive

BACKGROUND

1. The Role of the National Transport Commission

The National Transport Commission (NTC) is an independent statutory body created under the *National Transport Commission Act 2003* (Cth). Its mandate is to progress regulatory and operational reform for road, rail and inter-modal transport in order to deliver and sustain uniform or nationally consistent outcomes.

The NTC fulfils this role through the development of model legislation which jurisdictions implement. Authority for legislative reforms is obtained through voting by the Australian Transport Council (ATC) of Commonwealth, State and Territory Transport Ministers. The NTC also coordinates and monitors implementation of approved reforms. Currently, Performance Based Standards (PBS) exists as an administrative arrangement and draft model legislation is due in late 2008.

2. Government Approval of Performance Based Standards

In May 2001, the ATC endorsed a policy proposal and principles for the development of PBS, a world leading approach to heavy vehicle regulation, which would act as an alternative regulatory system to the current prescriptive regulations. A substantial sub-project then developed a set of performance measures and appropriate levels of performance. In March 2004, ATC approved the resultant PBS Standards as an interim set, pending submission of the completed PBS package for approval. In October 2007, the PBS regulatory package was approved as a key element of the Council of Australian Governments' (COAG) national reform agenda for transport. Performance Based Standards are seen as a more holistic approach to Australian transport, consistent with the newly drafted National Transport Plan and with subsequent flow-on benefits for the costs of doing business.

3. What are Performance Based Standards

Performance Based Standards have been developed as a national alternative to the current system of heavy vehicle regulation. Rather than a 'one size fits all' approach, PBS will allow industry additional scope to innovate, resulting in fewer vehicles, safer performance and the least possible effects on roads and bridges. Performance Based Standards provides an improved regulatory system that encourages innovation and provides a better match between vehicles and roads, also setting minimum safety standards for heavy vehicle performance such as rollover risk, braking and the ability to turn in traffic within a defined safe 'envelope'.

The key objective of PBS is to develop more flexible laws, which encourages transport operators to invest in SMART¹ trucks like the Trackaxle², quad axle groups and B-triples. These innovations would become generic SMART heavy vehicle designs to more

¹ Safer Management of Australian Road Transport.

² Trackaxle is a re-design of the rear axle set on a semi trailer causing the back end of the trailer to steer itself along a path similar to the prime mover. The prime mover is the front end of the truck consisting of the towing engine, where the driver is seated.

productively service the growing freight task; not simply replace existing equipment they already own.

Presently, vehicles which do not comply with prescriptive regulations for length, width, height and mass, may be exempted through various permit and gazettal arrangements in each jurisdiction. An operator wishing to operate such a vehicle in more than one jurisdiction must apply for an exemption or operate according to a permit or gazettal in each individual jurisdiction in which the vehicle will operate.

4. Why Performance Based Standards are Necessary

Australia is largely dependent on road transport which accounts for almost two-thirds of all land-based freight transport. Moreover, Australia's freight intensity as measured by the ratio of freight tonne kilometres to GDP is three times that of the OECD average.³ According to forecasts by the Bureau of Infrastructure, Transport and Regional Economics (BITRE), the domestic freight task (including air and sea) will increase by 80 per cent from 378 to 682.63 billion tonne-kilometres⁴ between 2000 and 2020. Road and rail transport will almost double over the same period, increasing from 268 to 523 billion tonne-kilometres.

These figures are supported by findings in a later NTC commissioned report, 'Twice the Task', which identified the stresses that significant increases to Australia's freight task in a relatively short time period will bring.⁵ Moreover, the Productivity Commission Inquiry Report (2006) viewed the full implementation of PBS as: 'a priority reform in achieving a shift to cost-effective regulatory framework for heavy vehicles with the potential to enhance the productivity of road transport.'⁶

Forecasts clearly indicate that adverse impacts will be greatest in urban areas, where congestion from cars compounds the impact from freight task growth.⁷ The key influences on demand are increases in resource demand for minerals and agricultural production, and the substitution and growth of imports as both consumer goods and raw material inputs.

This high dependence on road transport for freight movement is set against a background of constraints on road network capacity and ongoing concerns over the safety, network capacity and environmental impacts of heavy vehicles and heightened climate change awareness.

³ There are two main measures of freight transport quantity: tonnes or tonne – kilometres moved and that of vehicle kilometres per tonne.

⁴ The equivalent of transporting one billion tonnes of freight for one kilometre, or one tonne of freight for one million kilometres.

⁵ NTC (2006).

⁶ PC Inquiry Report into 'Road and Rail Freight Infrastructure Pricing' (2006) p. 297.

⁷ Urban congestion is largely caused by cars and imposes on freight vehicles, rather than the reverse.

WHY REFORM

5. The Need for Regulatory Reform

The major response of road agencies to the growing supply demand inequity has been to increase allowable mass and vehicle dimensions as a means of increasing vehicle productivity. These adjustments, often implemented on an ad hoc basis, are characterised by a lack of national consistency, including differences between jurisdictions in the criteria used to assess applications for exemptions and differences in the information sought in applications for exemptions. In addition, the underlying system of prescription focuses on the inputs to vehicle performance (such as dimensions) rather than on performance itself.⁸

Given these inconsistencies the NTC seeks redress by instituting a nationally better harmonised and ultimately, less-burdensome regulatory framework. These improvements would likely have design and production ramifications for the motor vehicle and trailer manufacturing, wholesaling and retailing sectors as outlined in Appendix A of the Commission's Issues paper; particularly for larger, heavier trailers.

6. What Will Happen Under the Performance Based Standards Approach

Under a performance-based approach to regulation, standards would specify the performance required from vehicle operation rather than mandating how the level of performance was to be achieved. In essence PBS seeks to align regulatory requirements more closely with the realities of how vehicles perform, how they are driven and operated, and the characteristics of the road network.

With current systems, lack of transparency and consistency in decision-making about road access sees manufacturers of non-standard vehicles and trailers sometimes refused access to a jurisdiction after building the equipment. This leaves the manufacturer/owner with an expensive and unusable vehicle. Performance Based Standards are intended to provide a nationally consistent and transparent regulatory framework that eradicates that type of uncertainty as manufacturers would know in advance whether a design is permissible.

The approach to regulation embedded in PBS has been adopted in other sectors, such as occupational health and safety and food standards, and is now well established as the approach preferred by the regulatory review agencies⁹.

The overarching objectives of PBS are:

- development of more sustainable transport systems through improved road vehicle regulations controlling heavy vehicle safety and infrastructure impacts; and
- development of more flexible road transport regulations that provide for increased innovation and more rapid adoption of new technologies, while providing seamless operations nationally¹⁰.

⁸ Generally see NTC (2003a) p 7 et seq

⁹ NRTC (2002) p 1.

¹⁰ NRTC (2002), p 1

HOW THE SYSTEM WILL WORK

7. How Performance Based Standards Work

A vehicle operator, original equipment manufacturer (OEM), or other party¹¹ identifies a vehicle design and discusses the concept with a jurisdiction in which operations are proposed to be undertaken.

Vehicles must be approved by the Performance Based Standards Review Panel (the Panel) in order to participate in the Performance Based Standards Scheme (the Scheme) and are governed by the Review Panel Business Rules. To be approved by the Panel vehicles must satisfy the safety standards and the infrastructure standards in a transparent and nationally consistent manner.

Applications for approval to participate in the Scheme are lodged with the Panel's Secretariat. The Secretariat will review applications that have been assessed by an accredited third party assessor for completeness and compliance and will recommend to the Panel whether it believes a vehicle should be given approval to participate in the Scheme and, if so, what national operating conditions should apply to the vehicle.

With more flexible regulation under PBS, manufacturers can design a trailer which meets their business needs. For example, a large Australian glass-maker currently operates a trailer specially designed to carry larger sheets of glass with an automated materials handling system. Under prescriptive regulations it was not possible to integrate the automated materials handling system into the trailer design, due to a dimensional constraint. However, under PBS the default dimensional constraint was able to be relaxed after demonstration of the vehicle's compliance with PBS safety standards. The result was a trailer with higher productivity potential and no reduction in safety to other road users.

8. Where the Vehicles Will Operate

The Scheme also includes the mapping of a four-level national road network that will form the basis of access for eligible vehicles, subject to any local operating constraints identified by jurisdictions. Some vehicles will have a high level of network access, while other vehicles may only have a low level of network access, depending on their characteristics. Guidance on how jurisdictions may classify roads according to the various categories of PBS road network classification is provided in the NTC PBS network classification guidelines.

To date benefits of the PBS network haven't been fully realised due to the slow take-up rate among jurisdictions, with most failing to publish PBS networks by the COAG deadline at the end of 2007. As Commonwealth funding levers aren't tied to regulatory reform, the lack of anything more than persuasive power and industry pressure limits the effectiveness of the NTC in ensuring this occurs. The role of local government is seen as critical in developing PBS given the national implications for the Scheme and the subsequent positive effects of doing business.

¹¹ The full list of applicants for PBS are expected to come from; OEMs, operators, transport associations, road transport agencies, and freight customers and shippers.

BENEFITS OF REFORM

9. Long-Term Benefits of Performance Based Standards

Best estimates have calculated that the land transport task will almost double between 2000 and 2020. The PBS approach will allow industry additional opportunities to innovate, resulting in improved productivity for a given freight task and safer performance to the least detriment of infrastructure.

In the face of almost certain continued growth in demand for transport of goods required, doing nothing will lead to increased congestion, costs, reductions in air quality, amenity and greater noise in urban and regional areas. The option of “doing nothing” will result in another 50,000 trucks on Australian roads, with one in four vehicles in cities carrying freight. The impact of freight growth will be greatest in urban areas; particularly around ports, inter-modal terminals and distribution centres.

Performance Based Standards have the potential to:

- reduce the socio-economic impact of freight transport effort. This includes measures which will reduce resource consumption, noise, emissions, road congestion etc;
- increase freight transport efficiency. This includes approaches which would reduce the number of trips required for any given task;
- reduce the average distance each freight tonne is moved; and
- reduce/manage the number of freight tonnes moved in the first place.

Improving the efficiency, capacity and productivity of the existing and planned vehicle fleet has obvious benefits; it permits undertaking more freight tasks with similar or fewer resources. Performance Based Standards measures increase capacity and productivity and consider vehicles, roads and the interaction between the two to achieve the given task requirements.

Improved transport capability and efficiency levels have been both a driver of economic growth, but also a facilitator of that growth. Measures which restrict transport service performance are very likely to restrict economic growth, generally accepted as a fundamental tenet of development and the basis for improvement in living standards.

For further information see: www.ntc.gov.au
