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Land Transport Market Reform Branch
Department of Infrastructure and Regional Development
GPO Box 594
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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



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