



SOUTH AUSTRALIAN FREIGHT COUNCIL



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HVRR@infrastructure.gov.au

296 ST VINCENT STREET
PORT ADELAIDE SOUTH AUSTRALIA 5015
P +61 8 8447 0688 F +61 8 8447 0606
WWW.SAFREIGHTCOUNCIL.COM.AU

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

Dear Sir / Madam

RE: Independent Price Regulation of Heavy Vehicle Charges

On behalf of the South Australian Freight Council's (SAFC) Executive Committee and Membership I thank you for the opportunity to comment on the Independent Price Regulation of Heavy Vehicle Charges Discussion Paper

As you may be aware, SAFC is the State's peak, multi-modal freight and logistics industry group that advises all levels of government on industry related issues. SAFC represents road, rail, sea and air freight modes and operations, freight services users and assists the industry on issues relating to freight logistics across all modes.

SAFC agrees with the discussion paper's contention that *'the system we presently use for setting the heavy vehicle user charge is not working well'*; with price determinations set by the NTC regularly altered by transport ministers. There are also significant concerns within industry about the calculation methodology used by the NTC – which the NTC has publically indicated overcharges the trucking industry. Moving to an evidence-based independent price regulator will be a significant improvement on the current system.

SAFC is a strong supporter of national regulatory harmonisation in Australia, across all modes – this has been a pillar of our regulatory advocacy efforts for over a decade. As such, SAFC rejects any suggestion that heavy vehicle price regulation could be undertaken at a jurisdictional level. This would only increase complexity and cost for the road freight industry, and would run counter to the valuable work undertaken in other areas to harmonise regulation – such as the creation of the National Heavy Vehicle Regulator. We expect that any move towards jurisdictional-based price regulation will be met with vocal opposition from the road freight sector.

As such 'Option 3: State and Territory based regulators' is not a feasible option.

In assessing the remaining two options presented in the discussion paper, SAFC considers that both organisational capacity in economic regulation and industry specific expertise are important in setting up a new price regulator. Noting the intention to move to economic regulation within a short period, we consider that industry specific expertise is easier to

acquire (or transfer) than organisational capacity in economic (as opposed to price) regulation.

While the 'user charges' model for future economic regulation is not mentioned in the discussion paper, SAFC notes parallel work being undertaken on Mass – Distance – Location (MDL) charging systems, including trials currently being undertaken in SA. A future economic regulator will need to have the ability to manage such a complex system should this model need to be implemented in the future. This is another point in favour of choosing economic regulation capacity over the more easily acquirable/transferrable industry knowledge.

Furthermore, we note that the NTC will continue to report directly to transport ministers in regards to the development of land transport regulatory policy, which is its primary purpose. These Ministers have a strong incentive to keep revenue streams from heavy vehicles high – as evidenced by recent price determination decisions. Should the price (and eventually economic) regulatory function be passed to the NTC, there would always be some question (valid or not) as to the true independence of the decision making.

On balance, SAFC supports Option 1 – the ACCC being appointed to undertake independent price regulation of the trucking sector. While there are pros and cons to each option, the intention to quickly move to economic regulation (as opposed to the price regulation that the NTC has primary expertise in), the complexity of MDL charging and the independence of the ACCC from other transport regulation development functions are determining factors in SAFC's support of this option.

SAFC emphasises that the above is not a critique of the NTC – this organisation provides a high quality regulatory evaluation and development service in relation to land transport in Australia; and should be recognised for its valuable work in this area.

In regards to the regulatory framework for setting up the regulator, we note the difficulties experienced in setting up the Office of the National Rail Safety Regulator (ONRSR) and National Heavy Vehicle Regulator (NHVR) through model law. It has taken 4 years to achieve full regulatory coverage for the ONRSR, and there is little prospect of this being achieved for the NHVR in the near future.

SAFC considers cross jurisdictional regulatory harmonisation in this area to be a major determinant of the end value of the initiative. Model law has not always proven effective in delivering timely regulatory harmonisation in the transport area. In choosing the regulatory framework for establishing the road price regulator, SAFC requests that the likelihood of achieving full jurisdictional coverage is taken into account.

With regards to the possible functions of a future economic regulator, SAFC agrees that the first six functions are appropriate.

The last function – ex-post evaluation of investments – is more problematic. Firstly, this function could be added to the remit of Infrastructure Australia (IA); which would reasonably extend their current functions in analysing the business cases for significant infrastructure projects. It could also likely be instituted far faster through IA than through an economic regulator that will not be fully established for several years.

Secondly, while there are learnings that could be achieved through this process, ex-post evaluation will inevitably become political, to the point where it could detract from the new organisation's primary purpose and undermine political support. SAFC is concerned that adding this element could be setting the new regulator up to fail. This risk would be heightened where model law was used to establish the regulator, where individual

jurisdictions can make unilateral decisions to pull out by repealing the enabling legislation were their projects criticised.

Again, I thank you for the opportunity to provide a submission on this important topic. Should you wish to discuss any element of this submission further, please feel free to contact me on (08) 8447 0664 or via email knapp.evan@safreightcouncil.com.au.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'E. Khapp', written in a cursive style.

Evan Khapp
Executive Officer, SA Freight Council.