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ATTENTION: GARETH PROSSER

Dear Sir

**LAND TRANSPORT MARKET REFORM - INDEPENDENT PRICE
REGULATION OF HEAVY VEHICLES - DISCUSSION PAPER**

Thank you for the opportunity to comment on your discussion paper, *Land Transport Market Reform - Independent Price Regulation of Heavy Vehicles*. I welcome the opportunity to contribute to this work. Western Australia (WA) recognises the important role market reform will play in addressing long term funding needs for road infrastructure, and in ensuring road investment and road use is efficient and sustainable. The WA Transport Portfolio supports the goals and objectives of heavy vehicle road reform (HVRR) and is committed to improving funding and investment of road freight infrastructure delivery.

The WA Transport Portfolio (the Portfolio) is comprised of the Department of Transport, Main Roads and the Public Transport Authority. Within the Portfolio, Main Roads and the Department of Transport collaborate on national policy related to heavy vehicle charges, and both agencies are actively engaged in discussions around further road funding reform through the Heavy Vehicle Road Reform (HVRR) process.

This response has been developed in consultation with Main Roads, the Department of Transport and the Department of Treasury.

Responses to the discussion paper questions are as follows:

Transition

Q1: Do you have any comments, concerns or observations in relation to the transition from the current process to independent price regulation?

The ultimate goal of heavy vehicle road reform (HVRR), as expressed by the Transport and Infrastructure Council (the Council), is to turn the provision of heavy road infrastructure into an economic service where feasible. In order to successfully move towards the goal it is critical that governments undertake funding reforms to direct existing revenue streams to road maintenance and delivery, while ensuring investment is efficient, prudent and focused towards meeting the needs of users. An independent price regulator is supported within the context of the broader reform.

The timing of implementing independent price regulation is critical. Implementation prior to reform of funding arrangements would not be prudent. The reform team needs to consider the perspective of governments who own the network and why they would relinquish their ability to set fees and charges while retaining the risks, responsibilities and financial liabilities of network ownership.

Independent price regulation would create an additional level of oversight over state governments and Ministers, with limited benefits for States and, in and of itself, limited economic benefits. The WA Transport Portfolio (the Portfolio) is of the opinion that price regulation is only appropriate in light of the broader road funding and investment reforms identified by Ministers under HVRR.

Therefore, the Portfolio believes there needs to be in principle agreement between the Commonwealth and States in relation to funding reform before it is appropriate to implement additional oversight and independent price regulation.

WA does not currently align with the nationally agreed registration fees for heavy vehicles due to policy considerations of the Government. Any independent price regulator would need to consider transitional arrangements for prices in WA, bearing in mind the impacts on both heavy vehicle road users and the State Government.

Before a transition could be supported by State Ministers, the following issues, amongst others, would need to be resolved:

- estimated revenue implications in the short and long term of moving to independent price regulation, including impacts for the GST distribution process;

- estimated financial implications for the heavy vehicle industry; and
- administrative impact on road agencies, including the extent to which it would be possible for local governments to provide required asset and expenditure information.

Level of independence

Q2: What do you understand independent to mean? Do the options presented in the paper accord with that understanding?

The Portfolio agrees with the definition used in the discussion paper. We also agree with the statement on the NTC, that if it were to undertake price regulation functions this 'may create a real or perceived conflict of interest due to involvement in the development and implementation of other heavy vehicle policy and regulation'.

Review and appeals process

Q3: In the short term, while the price regulator would only be regulating prices for heavy vehicle charges, could user concerns be adequately addressed through regulatory rules or is an appeal process needed?

Any new pricing process should be transparent to all parties and consider the needs of both road users and providers. Government concerns also need to be accommodated to ensure the process is fair, reasonable and transparent for all parties.

Provisions for appeals processes would necessarily increase the administrative challenges with implementing the partial reform.

National or State-based regulator

Q4: How important is a nationally consistent approach to the regulation of heavy vehicle charges?

The Portfolio supports a nationally consistent approach to the regulation of heavy vehicle prices. There are advantages to a consistent approach, such as to avoid 'jurisdiction shopping' and in relation to management of related Commonwealth funding issues (e.g. GST distribution and treatment of road user charge revenues).

In the context of broader HVRR, a nationally consistent approach should allow for differences between jurisdictions, such as the costs of road provision, traffic volumes, existing service levels and desired service levels, and national consistency would not preclude jurisdictional based service levels and prices. "Consistency in principles and the model" should not be misinterpreted as a requirement for nationally standardised pricing and service levels.

National regimes do not exist for other utilities and state governments continue to bear the responsibilities of network ownership. It is noted that the operations of future charging systems do require a level of national consistency.

In the short term it may be appropriate to maintain a single national pricing model with the associated governance structure.

'Purpose built' or 'multi-industry' regulator

Q5: What do you consider more important for establishing an independent price regulator for heavy vehicle charges, organisational capacity in economic regulation or industry specific expertise?

It is important for the independent price regulator to have organisational capacity in economic regulation; however, it is equally important for whoever develops the pricing application to have industry specific expertise. These two functions do not need to sit within the same organisation. Decisions about roles need to be based on the costs and benefits of acquiring both facets.

Q6: What would be your preferred option for establishing an independent price regulator for heavy vehicle charges?

Regardless of how the reform proceeds, final pricing decisions should remain the prerogative of Ministers. There may be legitimate policy reasons for not implementing the recommended price determinations; however, to ensure transparency, Ministers should be required to provide an adequate justification for the non-adoption of any determination.

The preferred model would be dependent on the ability of the proposed regulator to access suitable expertise, both with regards to price/economic regulation and roads/heavy vehicle charging. Transport Ministers have agreed that heavy vehicle reform should be implemented with full market reform in mind. Regulation being undertaken by the ACCC or a separate dedicated entity may better support later reforms.

I note that the disadvantages outlined in option 3 (State based regulators) do not apply fully in WA, due to the low volume of interstate road freight movements. The Portfolio is of the opinion that HVRR reforms could be implemented on a State by State basis if required with limited systemic risk.

Separation of price development and price regulation functions

Q7: Does there need to be a structural separation in the roles of price development and price regulation?

It would be appropriate to consider a structural separation between the price developer (as the applicant) and the pricing regulator, as is standard in economically regulated industries.

The Transport Portfolio considers the NTC to be well placed to develop pricing submissions on behalf of governments, given their existing expertise and knowledge. It may be appropriate to move this function to road agencies in future iterations of the reform.

As the separation of roles would increase the overall administrative burden of the process, there would need to be clear justification for this path. An observation from other sectors is that if there is a separation of price development and regulation roles, there should be a consistent approach across jurisdictions with regards to the agency or organisation responsible for making a pricing application. For example, would submissions or other inputs from States be authorised at the departmental or Ministerial level?

Functions of an economic regulator

Q8: Are the functions of the economic regulator, as discussed in this paper at Table 1, appropriate in the heavy vehicle sector? What should/shouldn't an economic regulator do?

The benefits of economic regulation in the heavy vehicle road sector are still to be demonstrated. The Portfolio is of the opinion that the benefits of economic regulation are likely to be limited by a number of factors unique to heavy vehicle road delivery, including the nature of the partial market, and the likely limited influence of a regulator on a road agency operating under a departmental model. I support further investigation of the costs and benefits of economic regulation independently of the development of a price regulator.

Appropriate regulatory and governance mechanisms

Q9: Is a model law the best approach for bringing governments under the same regulatory model?

WA will continue to consult with the Commonwealth on the appropriate governance and regulatory structure through the HVRR working group. It should be noted that if a national regulatory model is agreed across jurisdictions, the passing of required legislative changes may take some time unless it is an agreed urgent government priority.

Other issues

Q10: Are there any other matters you wish to comment on?

It is appropriate for state governments to maintain the right to implement pricing policies through a range of regulatory tools that would not fall under the remit of a pricing regulator. These tools include road access fees, permit fees, vehicle registration concessions and any number of policy tools that may be implemented in the future to meet policy goals not covered by the national pricing system.

Conclusion

The priority of governments should be to improve the overall efficiency of the funding and delivery of heavy vehicle road infrastructure, though HVRR. It is the opinion of the Portfolio that funding reform should be the priority goal for all governments, and that an independent pricing regulator should only be implemented once agreement on funding reform has been reached.

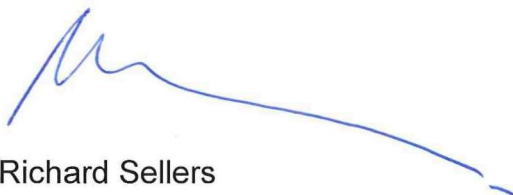
While the Portfolio supports additional independent oversight, price setting is ultimately the responsibility of Government. Ministerial discretion should be limited to occasions where there is a clear demonstrable policy rationale for the non-implementation of recommendations.

While the Portfolio does not have a firm view on the ultimate structure of an independent regulator, I recognise that the NTC continues to be appropriately placed to develop the regulatory application on behalf of road agencies due to their existing expertise and knowledge.

I thank you for the opportunity to contribute to the discussion on independent price regulation of heavy vehicle charges. I would particularly like to thank the Land Transport Market Reform Branch for their continued engagement with staff from within my team.

If you require any further information please contact Mr Simon Grieve on 08 6551 6475.

Yours sincerely



Mr Richard Sellers

DIRECTOR GENERAL

DEPARTMENT OF TRANSPORT