AUSTRALIAN TRUCKING ASSOCIATION

HEAVY VEHICLE ROAD REFORM CONSULTATION PAPER

AUSTRALIAN TRUCKING ASSOCIATION SUBMISSION
23 OCTOBER 2020

1. About the Australian Trucking Association

The Australian Trucking Association and its member associations collectively represent 50,000 businesses and 200,000 people in the Australian trucking industry. Together we are committed to safety, professionalism and viability.

2. Summary of recommendations

Recommendation 1
The Transport and Infrastructure Council should proceed with the four supply side reform elements under Heavy Vehicle Road Reform.

Recommendation 2
The Transport and Infrastructure Council should expand HVRR reforms to also include heavy vehicle access decisions, infrastructure investment decisions, regulation of monopoly infrastructure and inclusion of local roads and light vehicle revenue.

Recommendation 3
The Transport and Infrastructure Council should defer consideration of the forward-looking cost base pending detailed consultation on the model and assumptions with industry and implementation of the other HVRR supply-side reform elements.

Recommendation 4
The Transport and Infrastructure Council should prioritise the introduction of service level standards.

Recommendation 5
The Australian Government should implement interim service standards to guide investment decisions on the National Land Transport Network by the end of 2021.

Recommendation 6
The introduction of national service level standards should include an access failsafe provision, to prevent the level of heavy vehicle access approvals being downgraded as a result of introduction of the framework.

Recommendation 7
Service level standards must include safe road design, rest areas, the level of heavy vehicle access approval, travel times, resilience, mobile data access and livestock effluent facilities.

Recommendation 8
The Transport and Infrastructure Council should mandate minimum service level standards for roads.

Recommendation 9
Consultation on setting and reviewing the service level standards should include a formal, open consultation process in addition to any formal user group committees, proactive outreach to industry and truck drivers, and making the service level standards accessible with an interactive online map.

Recommendation 10
The proposed forward-looking cost base should include a formal industry consultation process for establishing the pricing path of heavy vehicle charges.

Recommendation 11
The proposed forward-looking cost base should pragmatically set an opening regulated asset base to produce an annual revenue requirement consistent with existing heavy vehicle charge levels.

Recommendation 12
The proposed forward-looking cost base should ensure the weighted average cost of capital is weighted to reflect the lower cost of borrowing from the Australian Government contribution to road funding.

Recommendation 13
The Transport and Infrastructure Council should implement independent price regulation of heavy vehicle charges as a priority reform.

Recommendation 14
The Transport and Infrastructure Council should implement independent price regulation of toll road and landside port heavy vehicle charges.

Recommendation 15
Charges calculations under Heavy Vehicle Road Reform must transparently account for the road user charge element attributable to electric vehicles and not cross subsidise electric vehicles within the charges model.

Recommendation 16
The Transport and Infrastructure Council should commence integrated reform to incentivise electric vehicle uptake and establish a sustainable road user charges model incorporating electric vehicles.

Recommendation 17
The independent regulator should determine charges for both the road user charge and registration charges.

Recommendation 18
States and territories should establish road funds to enable the dedication of heavy vehicle revenue to road infrastructure.

Recommendation 19
State and territory road funds should be expanded to include light vehicle revenue.

Recommendation 20
State and territory road funds should implement independent project selection, within government set priorities.

Recommendation 21
The Australian Government should implement independent project selection for its infrastructure investment programs, within government set priorities.

3. Introduction

Debate about reforms to how heavy vehicle charges are collected and spent has been ongoing for many years and through many acronyms, including one that sounded uncannily like President Nixon's re-election effort. In 2018, the ATA recommended that Heavy Vehicle Road Reform be refocused to prioritise supply side reforms to how roads are funded.[1]

In November 2019, the Transport and Infrastructure Council agreed to consult on reforms focused on supply side measures. These are the focus of the Heavy Vehicle Road Reform Consultation Paper, released in September 2020.

The consultation paper outlines four key elements of the proposed new system:

1. **Service level standards.** National service level standards with road categories that have levels of service covering issues that road users care about.

2. **Expenditure planning and determining what costs are recoverable from heavy vehicles.** States and territories would develop road expenditure plans, which would be assessed by an independent body to determine what costs would be recoverable from heavy vehicles.

3. **Independent setting of heavy vehicle charges.** An independent body would use the determination of what is recoverable to calculate heavy vehicles share of the expenditure. The body would set the national fuel-based road user charge and recommend registration charges for the states and territories. Charges would be calculated using a forward-looking cost base.

4. **Dedicated road funding (hypothecation).** Revenue from heavy vehicle charges would be dedicated to road infrastructure. Road investment would also continue to be funded from general revenue.[2]

These broad reform elements align with the ATA's recommendation to prioritise reforms on supply side measures.

However, the effectiveness of these reforms will depend on the details as the reform elements are complex. The consultation paper only sets out the broad principles and direction for reform and as a result the ATA's support for the proposed elements is dependent on the nature of the detailed proposals for each reform element.

Specifically, the ATA cannot agree to supporting a forward-looking cost base without a model to assess.

[1] ATA. Submission on the Consultation Regulation Impact Statement: HVRR Phase 2: Independent price regulation of heavy vehicle charges. August 2018.
[2] Australian Government. Heavy Vehicle Road Reform Consultation Paper. September 2020.

Disappointingly, the scope of the proposed reforms does not reflect the roadmap recommended by the ATA in 2018. In addition to the 2020 proposed HVRR reform elements, the ATA proposed roadmap also included:

- agile and innovative reform to access permits
- independent regulation of toll road and landside port charges
- deferral of consideration of the forward-looking cost base until the other supply-side reforms are successfully implemented
- creation of a genuine, national High Productivity Freight Vehicle network
- a national road infrastructure investment fund and planning process, including light vehicle revenue, to better target road infrastructure investments with independent project selection
- reducing barriers to the purchase of new heavy vehicles (such as stamp duty) and introducing monthly registration payment options
- inclusion of local roads in the reform
- establishing operationally separate government bodies to manage the road network.[3]

As advocated by the ATA in 2018, this reform package as a whole would be better targeted at achieving the projected benefits envisioned by HVRR.

The ATA HVRR roadmap would require governments to embrace integrated reform across a number of policy areas beyond HVRR, including delivering real reform to road access approvals under the Heavy Vehicle National Law, reform of infrastructure investment decisions and fixing the gap in effective market regulation of monopoly infrastructure.

The Australian Government should demonstrate leadership in establishing a national High Productivity Freight Vehicle Network. The ATA submission to the 2020-21 Federal Budget recommended that the Government adopt minimum standards on HPFV access on the National Land Transport Network.[4]

Similarly, inclusion of light vehicle revenue into road funds would be a critical step towards full market reform and greater independence of project selection could be integrated into existing infrastructure investment programs.

The ATA is also concerned at the non-binding nature of a number of the reform elements. Ultimately, governments have been slow to deliver reform. The projected economic benefits from better access under the Heavy Vehicle National Law never materialised,[5] improved and independent project selection has lagged significantly when compared to reforms in New Zealand[6] and Infrastructure Australia has reported on the low uptake of High Productivity Freight Vehicles due, in part, to infrastructure gaps.[7]

Non-binding reforms, such as the proposed delivery of service level standards, suggests that the projected benefits may never be achieved.

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[3] ATA. August 2018. 14.
[4] ATA. 2020-21 Pre-Budget Submission. August 2020. 16.
[5] Deloitte Access Economics. Economic benefits of improved regulation in the Australian trucking industry. Report commissioned by the ATA. March 2019.
[6] ATA. Submission to the Inquiry into National Freight and Supply Chain Priorities. July 2017. 10.
[7] Infrastructure Australia. Australian Infrastructure Audit 2019. June 2019. 344, 345.

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The Transport and Infrastructure Council should expand HVRR reforms to also include heavy vehicle access decisions, infrastructure investment decisions, regulation of monopoly infrastructure and inclusion of local roads and light vehicle revenue.

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The Transport and Infrastructure Council should defer consideration of the forward-looking cost base pending detailed consultation on the model and assumptions with industry and implementation of the other HVRR supply-side reform elements.

5. Responses to consultation paper questions

Reform element 1: service level standards

Question 1: What do you see as the pros and cons of establishing service level standards?

The ATA is a longstanding advocate of the need to establish service level standards. In 2013, the ATA commissioned an independent report by PwC into the road planning, funding and charging system. The report recommended the establishment of a three-tiered freight network, with defined road access service levels for each standard.

In response to the 2017 inquiry into National Freight and Supply Chain Priorities, the ATA recommended setting service level standards as a key reform to road investment.[8]

The key outcome from establishing service level standards needs to be a better road network for road users. It should focus road infrastructure investments on upgrades which fix gaps in the network and deliver outcomes for improved safety, productivity, accessibility and time travel reliability.

A potential challenge from establishing service level standards would be if some road managers seek to reduce heavy vehicle access as a result of implementing the standards. For example, if a road manager seeks to reduce access permissions to a lowest common denominator position, rather than using the standards to target upgrades to fix gaps in the network.

The implementation of the service level standards will need to include a heavy vehicle access failsafe provision to prevent this outcome. Design of this provision should be a priority of further consultations on the service level standards.

Early introduction of service level standards on the National Land Transport Network

Another key risk of HVRR is the lengthy process for the reform agenda and the failure to deliver outcomes on the ground despite years of consultation.

[8] ATA. July 2017. 13-15.

The Australian Government can partially address this by prioritising the introduction of service level standards on the National Land Transport Network (NLTN). Whilst the Australian Government is not a road manager, it determines the NLTN and provides significant funding for the network.

The Government should implement interim service standards to guide investments in the NLTN. Interim NLTN standards would be less complex then the current proposals. The purpose of the roads has already been established as national, and the network has already been determined. Interim NLTN standards should be implemented by the end of 2021, to eventually be replaced by the service level standards framework under HVRR. The interim standards should be used to prioritise infrastructure investment towards delivering a national highway network with HPFV access, which meets the Austroads guidelines for rest areas.

Recommendation 4
The Transport and Infrastructure Council should prioritise the introduction of service level standards.

Recommendation 5
The Australian Government should implement interim service standards to guide investment decisions on the National Land Transport Network by the end of 2021.

Recommendation 6
The introduction of national service level standards should include an access failsafe provision, to prevent the level of heavy vehicle access approvals being downgraded as a result of introduction of the framework.

Question 2: What are the most important things for the service level standards to capture?

Service level standards must include:

- **Level of heavy vehicle access approvals**, in particular for High Productivity Freight Vehicles.
- **Rest areas**, including frequency, design standards and capacity. The service level standards should align with the Austroads guidelines for heavy vehicle rest areas.
- **Safe road design.**

The ATA's proposal for interim NLTN service standards should also include these outcomes.

Previous analysis of HVRR by Deloitte Access Economics has identified that improved road access, such as a national network for A-doubles or B-triples, would be a key benefit.

Similarly, improved access for more productive trucks was meant to be a key benefit of the introduction of the Heavy Vehicle National Law. Governments failed to deliver this outcome.

Governments need to identify, plan and deliver a High Productivity Freight Vehicle network. This was central to the ATA's 2018 recommendations on HVRR, which the Australian Government has not progressed.

Implementing interim service standards on the national highway network (NLTN), including access for High Productivity Freight Vehicles, would represent an important economic reform.

The eventual framework for the service standards under HVRR should also include:

- Travel times and consistency
- Resilience (response to disruptions, including road crashes and natural disasters). The availability of alternative routes should be considered under resilience (where there no alternatives, such as the major freight routes connecting WA to other states, then resilience becomes more critical)
- Road user travel experience
- Pavement quality, to encourage road managers to build with better quality pavement for lower long-term maintenance costs (and not default to building with the lowest cost pavement solution)
- Last mile freight connections
- Livestock effluent dumping facilities, where appropriate
- Communication and mobile data access
- For major freight routes, not imposing restrictions such as curfews
- In the medium to longer term, identifying roads which are ready for vehicles with higher levels of automation.

The service level standards should be expressed numerically as well as qualitatively, so that they can be effectively measured.

The consultation paper sets out that the service level standards would not mandate a minimum standard for roads. Instead, they would document what road users want from different types of roads and be used to assess state and territory expenditure plans.

The ATA supports mandating minimum service standards for roads. Without a mandated minimum level of service, the ATA is concerned that the proposed reforms will not achieve better service levels for road users.

Recommendation 7
Service level standards must include safe road design, rest areas, the level of heavy vehicle access approval, travel times, resilience, mobile data access and livestock effluent facilities.

Recommendation 8
The Transport and Infrastructure Council should mandate minimum service level standards for roads.

Question 3: What mechanism/s should be established to make sure the service level standards reasonably reflect the views of users, including their willingness to pay? For example, how can a wide range of stakeholders be represented in the process?

Question 4: What mechanisms could be used to review the service level standards periodically? For example, should there be a standing body, or consultation periodically when the service level standards are reviewed?

For consultation questions three and four, it is important that governments ensure the setting of service level standards (and future updates) include a formal and open consultation period, for a minimum of six weeks from publication of draft proposals. The consultation period should be longer than this minimum standard.

This should not prevent governments from establishing a standing body or consultative user-group, but these mechanisms should not replace open consultation for setting and reviewing the service level standards.

In the review of the Heavy Vehicle National Law, the ATA and Big Rigs have led a public have your say campaign to involve individual driver feedback in the review. Formal consultations (submissions, workshops, etc) are not always accessible to truck drivers. The ATA have your say campaign illustrates the need for a proactive consultation strategy which engages the industry.

The effectiveness of future reviews of the service standards would be improved if the standards are accessible. Provision of an accessible online map would enhance the ability for road users to engage with the standards and increase the potential outcomes from future reviews. This map should be integrated into the NHVR journey planner portal, as opposed to potentially creating a conflicting source of information.

Recommendation 9
Consultation on setting and reviewing the service level standards should include a formal, open consultation process in addition to any formal user group committees, proactive outreach to industry and truck drivers, and making the service level standards accessible with an interactive online map.

Reform element 2: expenditure planning and determining what costs can be recovered from heavy vehicles

The consultation paper sets out that under this reform element, state and territory government road investment plans would be independently assessed against the service level standards.

The assessment would look at the level of service to be provided, and the cost effectiveness of the investment. The principles underlying the assessment of what expenditure is recoverable from heavy vehicles would need further development.

Under the proposed system, governments would retain the final decision on what investments are made. The independent review of those plans would determine how much of those plans will be recovered from heavy vehicles.

Question 5: Which model for independently determining what expenditure is recoverable from heavy vehicle users would you prefer and why?

Question 6: If some or all of the independent determination of what is recoverable from heavy vehicle users will take place at the state level, what checks could be put in place to ensure national consistency of expenditure recovery?

Question 7: How important is the independence of the body/ies assessing expenditure?

Question 8: What benefits to users do you think particular expenditure review mechanisms might offer compared to the administrative costs associated with that mechanism?

The consultation paper sets out three main governance options for the independent review of expenditure plans:

- State/territory-based determination, where each state may choose an independent body in accordance with national guidelines
- National body determination, to ensure the determination is nationally consistent and obtain economies of scale
- A hybrid model, involving both state and national bodies.

The paper sets out a number of the tensions with the different options. These issues should be transparently and more rigorously assessed, as part of a regulation impact statement that should be prepared as a priority.

Rather than adopt one of the above governance options, on limited information, the ATA recommends the following issues must be addressed by the future independent regulator(s):

- **Independence of the regulator.** It is critical that the regulator (agency responsible for expenditure reviews) is independent and that its assessments are transparent. Non-independent assessment of expenditure plans will likely undermine confidence in the entire system.

- **National consistency.** The ATA does not support eight separate versions of service level standards funded by a national road user charge, which is what would eventuate from not maintaining national consistency in expenditure reviews. Additionally, the consultation paper identifies that a solely state based system could lead to governments seeking to maximise the revenue from road expenditure which is recoverable from heavy vehicles, which would inflate heavy vehicle charges. **It is critical that the governance model provides national consistency.**

- **State/territory service considerations.** Whilst the ATA supports national consistency, it is important that the process accounts for differences in service provision. For example, the costs of providing road upgrades in the ACT will be different to the costs in the Northern Territory or Queensland.

- **Road user engagement.** The system should incorporate road user engagement, including the importance of local, state/territory and national industry input.

- **Cost and deliverability of governance options.** In considering the governance model for the independent regulator, governments should consider the cost and deliverability of the options. For example, if a model requires independent regulators to be established in each state and territory, it may not be feasible in smaller jurisdictions.

Additionally, the expenditure review model should address what would occur when state and territory governments do not build projects which have been approved for expenditure and included in the heavy vehicle cost base. For example, electoral changes of state government have resulted in proposed major road projects not proceeding in both Victoria and Western Australia.

HVRR should not represent new or higher charges

To paraphrase the introduction of the GST, HVRR is about a new charging and road funding framework, not new charges.

This has been the view put to the ATA by government in public consultation on HVRR.

However, there is reasonable concern within industry that this is not the case:

- In late 2019, the Transport and Infrastructure Council considered increasing heavy vehicle charges by more than 11 per cent with limited warning or consultation with industry (ministers later chose to freeze charges, following consultation with industry)
- Work on the charging pilot continues, where some operators have received mock invoices for higher charges
- The phrase 'willingness to pay' in the HVRR consultation paper, even if not intended, creates an impression of seeking to extract the maximum charge possible.

The Transport and Infrastructure Council should continue, as a priority, to ensure HVRR is focused on the framework for collecting and spending heavy vehicle charges and is not about new or higher charges.

Reform element 3: independent setting of heavy vehicle charges

Under this reform element the consultation paper proposes that the independent body or bodies would:

- decide the heavy vehicle share of the expenditure approved under reform element two
- determine the rate of the Commonwealth road user charge
- recommend the national baseline registration charges to states and territories. Each state and territory would continue to make their own final decisions.

Question 9: How important is the aim of reducing volatility of heavy vehicle charges?

The ATA has consistently recommended reform options to reduce the volatility of heavy vehicle charges, it is a critical issue for HVRR to address.

For example, the ATA's 2016 submission on the existing PAYGO system recommended reforms to smooth the trajectory of charges.

Question 10: Does a forward-looking cost base seem to be a better way of assigning charges over time?

The ATA's 2018 submission on Heavy Vehicle Road Reform and the consultation regulation impact statement on establishing an independent price regulator recommended that consideration of a forward-looking cost base should be delayed until successful introduction of other reform elements (including the independent regulator and service level standards).

The ATA cannot agree to supporting a forward-looking cost base without a model to assess.

Question 11: What, if any, additional information would you like to have about the proposed forward-looking cost base?

Key issues with the proposed forward-looking cost base

Establishing the pricing path

A key element for the proposed forward-looking cost base model is to establish the process for setting the pricing path, especially when moving to a new pricing period/determination. This decision cannot be left to the outcome of a charging calculation or model, which may produce significant variation between pricing periods.

The model requires a formal consultation process, including key industry stakeholders, to review the pricing path. For example, in late 2019 the existing PAYGO model recommended charge increases of over 11 per cent. There was no formal consultation with industry prior to the initial consideration of the increased charges by ministers. As a result, the charges recommendation lacked proper consideration of the impact on industry of a significant increase.

HVRR should learn from the 2019 PAYGO recommendation issue and include a formal industry consultation process to provide input into the pricing path (prior to consideration and a decision by ministers or the independent regulator).

Recommendation 10
The proposed forward-looking cost base should include a formal industry consultation process for establishing the pricing path of heavy vehicle charges.

Establishing the opening Regulated Asset Base (RAB)

The consultation paper notes that one of the main initial determinants of heavy vehicle charges under the building block model is the opening regulated asset base.

The opening RAB should be set pragmatically to produce an annual revenue requirement (ARR) consistent with maintaining existing heavy vehicle charge levels.

This approach is often called a 'line in the sand' approach and was recommended by Farrier Swier in 2017.[9]

Over time, the arbitrarily valued assets in the opening RAB would be depreciated out, and new, valued assets would replace it.

The line in the sand approach has been used in other similar reforms to explicitly achieve price stability, for example in Melbourne's water businesses and NSW electricity distribution.

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[9] Farrier Swire Consulting, Financial policy elements of developing a forward-looking cost base for heavy vehicle charging. Report prepared for the Australian Government Department of Infrastructure and Regional Development, 2017. 63.

Recommendation 11
The proposed forward-looking cost base should pragmatically set an opening regulated asset base to produce an annual revenue requirement consistent with existing heavy vehicle charge levels.

Setting the Weighted Average Cost of Capital (WACC)

The consultation paper envisages that each jurisdiction's WACC would be tied to the 10 year average yield on its 10-year bonds.

The paper argues that a 10 year average would smooth any volatility in interest rates, and points out, appropriately, that there would be no justification for adding a risk premium to each WACC.[10]

This approach is likely to push the WACC above an appropriate level, as it does not consider the Australian Government contribution to road funding. The WACC is intended to represent the weighted average cost of capital to an entity, but the existing HVRR model does not do this.

For example, in 2017-18 the Australian Government contributed 22.3 per cent of road related expenditure in NSW.[11] As of September 2020, the Commonwealth 10 year bond rate is 0.90 per cent per annum, with the NSW 10 year bond rate being 1.31 per cent.[12]

Setting the Commonwealth share of NSW road expenditure at the NSW 10 year bond rate would be too high.

The ATA understands that the Government intends more detailed consultation on the forward-looking cost base, potentially in 2022. Should the Transport and Infrastructure Council decide to progress with the FLCB, this consultation will be critical. The Transport and Infrastructure Council should:

- provide industry with a FLCB model and assumptions for detailed consideration
- calculate the impact of using a WACC which factors in the cost of Commonwealth borrowing.

Recommendation 12
The proposed forward-looking cost base should ensure the weighted average cost of capital is weighted to reflect the lower cost of borrowing from the Australian Government contribution to road funding.

[10] Transport and Infrastructure Council, 2020. 27.
[11] Bureau of Infrastructure, Transport, Cities and Regional Development. Australian infrastructure statistics Yearbook 2019. 2019. Table T 1.2a and Table T 1.2d.
[12] Reserve Bank of Australia. Statistical tables: Capital Market Yields – Government Bonds – Monthly – F2.1.

Question 12: How important is the element of independence in assessing expenditure and charge-setting?

Question 13: What advantages and disadvantages are there to establishing independent pricing regulation?

For questions 12 and 13, introducing independent price regulation is one of the most critical reform elements under HVRR. Failure to implement independence in assessing expenditure and setting charges would draw into question the entire HVRR agenda.

Previously, the Australian Government planned to transition to independent heavy vehicle price regulation by 2017-18. A consultation regulation impact statement was published in 2018, including detailed engagement by industry and the ATA with the RIS.

The ATA is supportive of the stronger focus on supply-side reform in the current consultation on HVRR but is disappointed that governments are still discussing if independent price regulation should be implemented.

In 2016, the ATA recommended that the NTC should take on an initial price regulation role with enforceable decisions which are subject to merits review. In the longer term, the role could be expanded to cover economic regulation (and potentially transferred to a new organisation).

The Transport and Infrastructure Council should:

- reaffirm its commitment to introducing independent price regulation for heavy vehicle charges
- commit to an implementation timetable
- transfer responsibility for initial price regulation of the road user charge and registration to an independent regulator
- develop a plan for expanding the role of the independent regulator over an agreed timeframe for implementation.

Recommendation 13
The Transport and Infrastructure Council should implement independent price regulation of heavy vehicle charges as a priority reform.

Question 14: What are the advantages and disadvantages of the independent price regulator functions being held by a separate body to the body/ies with the expenditure review function?

The ATA supports the role of independent price regulator and expenditure review being held by the same agency unless expenditure review is held by state and territory level agencies. The role of independent price regulator needs to be a national agency.

The review of expenditure is central to determining the heavy vehicle share of expenditure and heavy vehicle charges. There would be clear alignment in holding these functions in the one agency, which would also encourage the agency to build its own expertise.

Question 15: Are there any other functions or responsibilities the independent price regulator should have under the proposed new system?

Question 16: What pricing principles should apply to the independent price regulator/s with the above work?

Independent price regulation of toll road and landside port charges

The ATA has consistently recommended that the independent regulator should also regulate toll road and landside port charges. These arguments, including some examples of the significant fee increases, can be found in section six of the ATA's 2018 submission on HVRR.

The ACCC has reflected on the strong financial motives for governments to structure privatisation processes in order to maximise the sale price of their assets, and that as a result, governments have little incentive to closely examine whether the market structure and regulatory arrangements that will apply post-privatisation are conducive to competition and appropriate outcomes.[13]

This is true of toll road concessions and landside port charges. The incentive for state governments is to reduce the upfront cost of new road infrastructure without giving full consideration to the long-term outcomes for competition, urban connectivity and costs for businesses and other road users.

Private toll road owners and state governments have been increasing toll road charges on heavy vehicles whilst avoiding a fair distribution of increases with light vehicles. At the same time, toll roads are increasingly becoming a monopoly asset for heavy vehicle traffic, with NorthConnex in Sydney being accompanied by truck bans on alternative routes.

The ACCC has commented on the Competition and Infrastructure Reform Agreement, as agreed by the Australian, state and territory governments in 2006. This agreement sets out the introduction of price monitoring for significant infrastructure facilities, as a first step where the potential introduction of price regulation may be required.

The intent of these reforms to provide a pathway to price regulation, when required, has not been fulfilled. Stronger pricing principles are needed for significant infrastructure to transition from price monitoring to price regulation when monitoring has proven to be ineffective.

The ACCC also state that the privatisation of monopoly or near monopoly assets, without appropriate pricing controls, can result in the transfer of market power and economic rent extraction to private hands.

Many infrastructure assets, such as toll roads and ports, have legislated or natural monopoly characteristics. The introduction of truck bans on alternative routes is increasing the monopoly status of toll roads. The ACCC has stated that price monitoring (such as what applies to port access charges) has little or no longer-term impact on the conduct of

[13] Sims, Rod, How did the light handed regulation of monopolies become no regulation? Speech to the Gilbert + Tobin Regulated Infrastructure Policy Workshop, 29 October 2015.

monopoly infrastructure owners.[14] The ACCC is clearly right, with Patrick co-owner Qube dismissing the ACCC's price monitoring as part of its "annual 'kick a stevedore' day."[15] The existing price monitoring approach is being dismissed by stevedores, who continue to roll out significant increases.

On toll roads, the benefit value to the industry is not always clear. A major transport company assessed the value for money proposition of some of these toll roads. An analysis of a Victorian based customer found that toll charges have doubled, increasing by half a million dollars since 2017. Despite this significant increase, travel time savings were minimal to non-existent. Additionally, an assessment of 12 routes showed that fees had increased by 100 per cent and failed to delivered travel time savings, which actually increased by 1.3 per cent. [16] That new toll roads (such as NorthConnex) are being introduced with truck bans on alternate routes suggests that governments know the value proposition to industry is being undermined by large toll prices.

As stated by the ACCC, private owners can operate assets more efficiently and at a lower cost than government owners. But privatisation should promote economic efficiency and not obtaining the maximum proceeds from the sale of the asset. This requires an effective regulatory framework, which does not currently exist.

Recommendation 14
The Transport and Infrastructure Council should implement independent price regulation of toll road and landside port heavy vehicle charges.

Electric vehicles

Calculating a road user charge for electric heavy vehicles

The calculation of heavy vehicle charges (and assessment of what costs can be recovered by heavy vehicle charges) needs to transparently include electric vehicles.

Under the current PAYGO model (and likely to be continued under HVRR), heavy vehicle charges recover the heavy vehicle cost base while ensuring each vehicle class, on average, pays the attributable costs allocated to the vehicle category.[17] Failure to collect the road user charge element from electric vehicles, or at least transparently account for it, would progressively undermine the charging model.

If the Transport and Infrastructure Council decides to continue to not charge electric heavy vehicles a road user charge, then the amount of revenue attributable to electric vehicles should be determined and treated as a public subsidy, rather than cross subsidising electric vehicles within the model.

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[14] Sims, Rod, How did the light handed regulation of monopolies become no regulation? Speech to the Gilbert + Tobin Regulated Infrastructure Policy Workshop, 29 October 2015.
[15] Wiggins, J. "ACCC cracks whip on stevedoring fee hikes" Australian Financial Review, 7 November 2019, 20.
[16] Information provided to the ATA, 2019.
[17] NTC. December 2019. Heavy vehicle charges consultation report. 10.

Recommendation 15
Charges calculations under Heavy Vehicle Road Reform must transparently account for the road user charge element attributable to electric vehicles and not cross subsidise electric vehicles within the charges model.

Preparing road funding for a sustainable future

The Transport and Infrastructure Council must address broader road user charging for electric vehicles, including light vehicles.

The NSW Review of Federal Financial Relations Draft Report highlighted that fuel excise revenue is not keeping pace with the increases in vehicle kilometres travelled across Australia.[18] This structural decline will undermine the ability of governments to maintain the road network. Either the:

- road network will deteriorate, with an unacceptable impact on road safety
- burden of paying for the road network will fall solely on petrol and diesel vehicles, or
- cost of maintaining roads will be increasingly met by general taxation, which may have impacts for other priorities (such as funding schools, hospitals and other services) or require an increase in general taxation.

None of these represent an acceptable outcome.

As the draft NSW report notes, implementing an electric vehicle RUC should not be seen as an attempt to discourage uptake of electric vehicles.[19]

The ATA supports implementing an electric vehicle RUC and at the same time has made recommendations to the Australian Government to accelerate the uptake of electric and hydrogen trucks. These policy objectives are not mutually exclusive.

ATA members are leaders in developing truck technology. For example, Daimler Truck and Bus will introduce the Fuso eCanter, an all-electric light truck, into the Australian market in February 2021.[20]

The ATA also agrees with the draft report finding that the upfront price of electric vehicles is a more important consideration to incentivising the uptake of electric vehicles.

Recommendations from the Chair of the Senate Select Committee on Electric Vehicles included that road user charging for electric vehicles should be phased in over a five-year period and eventually levied at an equivalent rate to fuel duty.

Evidence to the committee suggested that the up-front price premium on electric vehicles was a deterrent to their purchase, so additional recommendations focused on tax changes to reduce the upfront purchase price.[21]

[18] NSW Treasury. July 2020. NSW Review of Federal Financial Relations Draft Report. 83.
[19] NSW Treasury. 2020. 84.
[20] Prime Mover Magazine. 29 July 2020. Fuso announces launch of all-electric eCanter in Australia.
[21] Australian Parliament. 2019. Senate Select Committee on Electric Vehicles Report. 137-140.

Recommendation 16
The Transport and Infrastructure Council should commence integrated reform to incentivise electric vehicle uptake and establish a sustainable road user charges model incorporating electric vehicles.

Question 17: Under the proposed new system, should heavy vehicle registration fees be nationally consistent and based on nationally agreed service level standards like the Commonwealth Road User Charge would be?

The ATA recommends that the independent regulator should set both the Commonwealth road user charge and state/territory registration charges.

The consultation paper sets out a proposed system where the independent regulator would determine the rate of the Commonwealth road user charge and only make recommendations for the registration charges, where each state and territory would make their own final decisions.

The ATA does not support the proposed model, which would incorporate a new tension in heavy vehicle charges between some charges which are set by an independent regulator and others which are set by governments. The new system would risk state and territory governments providing registration concessions (such as to farm vehicles), increasing pressure on the independent regulator to increase the road user charge to a level which collects the full heavy vehicle cost base.

The ATA understands from the HVRR public consultation by government that the intent would be that any registration concessions would have to be financed by the states and territories. However, the internal tension within the new system would incentivise a future policy decision to enable the independent regulator to recover the gap from the road user charge.

The consultation paper sets out that the system for setting registration charges would be similar to the existing PAYGO system. Consultation on the next pricing determination under the PAYGO system has included consideration of recovering the cost of registration concessions from other charges.

The ATA recommends that the independent price regulator should set both registration and the road user charge. If governments are not willing to implement this option, then the regulator should recommend both sets of charges with final decisions to be made by governments.

Recommendation 17
The independent regulator should determine charges for both the road user charge and registration charges.

Reform element 4: dedicating heavy vehicle revenue to roads (hypothecation)

Under this proposed element, revenue from heavy vehicle charges would be dedicated to investment in the road network.

Question 18: Do you have any comments about how charges are proposed to be dedicated to road infrastructure?

Question 19: What publicly available reporting from either regulatory bodies or states and territory governments would be useful?

Ultimately, the ATA supports a full market reform which also includes light vehicles. The consultation paper sets out that heavy vehicle charges recover about $3.3 billion, or around 22 per cent of the total cost of building, renewing and maintaining the road network.

Hypothecation is intended to provide a dedicated, sustainable and reliable revenue stream so that more optimal road maintenance can be delivered, reducing costs for road providers. The partial hypothecation which is proposed will not fully deliver this outcome. However, it is a step in the right direction.

State and territory road funds

The model proposed in the consultation paper for dedicating heavy charges to road infrastructure would be strengthened if the states and territories introduced road funds for the dedicated revenue.

State and territory road funds would:

- Increase transparency and industry confidence that dedicated revenue is actually dedicated to road infrastructure
- Collect heavy vehicle revenue would be committed into the funds
- The funds should be established to only permit expenditure on road infrastructure
- Provide a level of transparency for the independent price regulator and expenditure review agency
- Not prevent state and territory decision making.

The ATA would recommend that this model should be expanded to include light vehicle revenue.

Recommendation 18
States and territories should establish road funds to enable the dedication of heavy vehicle revenue to road infrastructure.

Recommendation 19
State and territory road funds should be expanded to include light vehicle revenue.

Independent project selection

Reforms to improve the independence and transparency in the selection of road upgrade projects should also be implemented by governments.

Independent project selection does not need to remove the ability of governments to set priorities and direction for the road network.

In New Zealand, the Government sets priorities for projects to be funded under the National Land Transport Fund (NLTN) by publishing the Government Policy Statement (GPS) on land transport. The GPS sets out what is to be achieved, how funding will be allocated between different activities, how much funding will be committed and how it will be raised. Individual project funding decisions are then independently made by the NZ Transport Agency, within the parameters set by the GPS.

State and territory road funds should move towards the NZ road fund model and the Australian Government should also implement independent project selection for its infrastructure programs.

Recommendation 20
State and territory road funds should implement independent project selection, within government set priorities.

Recommendation 21
The Australian Government should implement independent project selection for its infrastructure investment programs, within government set priorities.