SUBMISSION to National Transport Commission Electronic Systems of Heavy Vehicle Driver Fatigue and Speed Compliance: Draft Position Paper

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AUSTRALIAN TRUCKING ASSOCIATION

Minter Ellison Building, 25 National Circuit, Forrest ACT 2603
P 02 6253 6900 **F** 02 6253 6999 **E** ata@atatruck.net.au **W** www.atatruck.net.au

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1 Summary

Road transport is a national industry that is critical to the economic wellbeing of Australia; moving in excess of 75 per cent of the national freight task. The efficient regulation of road transport is in the nation's interest.

The regulations should encourage the adoption of systems that promote safety and compliance by operators, including electronic systems, by providing recognition of operators' existing systems. However, mandating of solutions should be avoided.

A number of operators in the industry already use electronic systems to assist drivers and their businesses to comply with fatigue rules, however wasteful duplication of effort occurs, as the only accepted record for driving hours remains the paper based work diary. The paper based work diary is not user friendly, it has been largely driven by a desire to provide enforcement certainty. Compliance facilitation should be a factor in allowing electronic work diaries to be used. It is unreasonable, and will be a deterrent to adoption, if the electronic work diary is more onerous or exposes drivers and/or operators to additional risk of infringements.

The Intelligent Access Program (IAP) does not enjoy wide spread support in the industry as it is high cost and low benefit. In addition some state specific retrospective applications of IAP are particularly counter-productive. However, it is acknowledged that the original application of monitoring ultra-heavy cranes may be a reasonable application of the device, as a very high risk of infrastructure damage from misuse exists. Similarly as proposed in this NTC report, IAP may be a useful tool for courts who have to deal with very serious repeat offenders, where a high risk of repeat offending and a severe risk potential exist.

2 Recommendations

Recommendation 1

The ATA recommends the development of a national framework for regulations that recognises, encourages and supports adopters of technology, including existing operator telematics systems. However, we oppose the mandating of telematics or even linking telematics to additional access as these hurdles will be counterproductive to adoption of technology, including telematics. There are currently many restrictions on network access, the application of appropriate risk management solutions to access does not require telematics. These cost effective management schemes must be continued and grown.

Recommendation 2

The ATA recommends a minimum level of government intervention. Industry investment in technology, including telematics, is generally based on a sound business case to do so. Regulators can get the best coverage and most positive impacts by recognising these systems in their legislation and practices. Recognising an operating free market solution is usually very cost effective for regulators and industry alike.

Recommendation 3

The ATA recommends that governments foster greater safety and compliance outcomes through the adoption of standards for optional electronic systems that are no more onerous than those which apply to the mandatory base-level paper-based work diary system. The ATA accepts the core elements of the paper work diary need to be replicated in an electronic system.

The ATA also believes that alternative time counting rules for electronic systems need to be established as part of the package recognising electronic systems. The new rules need to ensure adopters are not disadvantaged and current rounding rules are adjusted to recognise the increased precision of electronic measurement and set to prevent minor technical breaches due to enhanced measurement. Fatigue measurement is not a precise science, therefore, we need workable and fair rules for electronic work diaries.

In particular, the ATA recommends that as a matter of policy, if all governments want to foster optimal use of electronic systems for recording and monitoring fatigue management, that all governments agree to ensure that inconsequential technical breaches (such as a 14 minute and 52 second rest) are ignored, provided that those breaches fall within an agreed scale and frequency.

Recommendation 4

The ATA recommends that the use of a more robust monitoring tool like IAP be limited to part of court imposed penalty options. The program should be limited to operators with a proven history of the most serious and persistent offences and with a very high likely hood of re-offending through severe risk speed and/or fatigue offences.

3 Introduction

Over the coming decades Australia is facing growth in freight demand and supply constraints that have the potential, if not appropriately addressed, to impose a devastating restriction on the nation's prospects for continued growth and rising prosperity.

Regulatory reform is needed to ensure that regulations encourage and support early adoption of technology, including telematics, and business support innovation. However, we are seeking recognition for use, not mandatory requirements to use telematics. This is about supporting an open market environment, not addressing a market failure. In our view, the only market failures come from the current regulations. For example the IAP link to High Mass Limits (HML) has degraded access and increased costs, while the failure to recognise operators fatigue management systems has led to duplication of effort in completing paper based work diaries. The industry will adopt technology including telematics, but regulations have proven time and time again to limit innovation and adoption rates.

The best way forward is to provide recognition for adopters of technology, including telematics, and to avoid the temptation to require telematics, as it will be counter-productive.

The ATA:

1. Supports fostering safety and compliance and on-going business improvement.
2. Believes electronic systems, including telemetry, can assist with this provided:
    a. the systems are practical, affordable, fair and effective;
    b. the relevant legislation is structured to encourage use and does not provide disincentives for adopting these systems;
    c. that any legislative recognition accepts existing systems, which provide the required outcomes;
    d. the systems do not provide a barrier to entry or adoption by virtue of imposing a higher standard that would otherwise apply under the legislated minimum. For example, the existing work diary standard versus an operator's electronic fatigue management system; and
    e. electronic systems remain optional to the legislated base standard, that is, the non-electronic option must remain.

4 Australian Trucking Association

The ATA was originally established in 1989 as the Road Transport Forum and is the peak national body uniting and representing the interests of the Australian trucking industry.

Membership of the ATA's General Council comprises the peak state and sector based trucking associations, the Transport Workers' Union, some of the nation's largest transport enterprises and representatives of small fleet owners and owner drivers.

5 Justification

Recommendation 1

The ATA recommends the development of a national framework for regulations that recognises, encourages and supports adopters of technology, including existing operator telematics systems. However, we oppose the mandating of telematics or even linking telematics to additional access as these hurdles will be counterproductive to adoption of technology, including telematics. There are currently many restrictions on network access, the application of appropriate risk management solutions to access does not require telematics. These cost effective management schemes must be continued and grown.

The ATA has consistently sought recognition of operators' systems by regulators. We therefore would support efforts to achieve this aim. However, we do not believe that technology including telematics is automatically the right solution. Nationally, the benefits of HML have declined in recent times due to the forced application of telematics in two states. Further, the inability to approve electronic work diaries, even though the legislation allows for this, is a poor reflection on regulator involvement in telematics service to the industry. There is no evidence of HML being such a high risk that IAP is warranted. The application of the existing compliance and enforcement powers are more than adequate to manage route compliance risks associated with HML or restricted access vehicles.

While hire and reward operators by far shift the most freight, they do not hold and operate the majority of vehicles. In pursuing supply chain efficiency, consideration of these operators must also be included and existing options maintained for those who wish to continue using them.

Recommendation 2

The ATA recommends a minimum level of government intervention. Industry investment in technology, including telematics, is generally based on a sound business case to do so. Regulators can get the best coverage and most positive impacts by recognising these systems in their legislation and practices. Recognising an operating free market solution is usually very cost effective for regulators and industry alike.

The industry has proven the ability to adopt technology and new business practices when it is appropriate and sound business practice to do so. In November 2009, it will be 25 years since B-doubles were first trialled in Australia. At the time, newspaper headlines were sensational and negative, making policy approval difficult. The facts are B-doubles have save hundreds of lives, reduce environmental and road impacts and save the community billions of dollars in transport costs. Please note the data shows that since 2006 B-doubles have overtaken semi-trailers as the industry work horses. These safety and productivity gains were slowed by restrictive, unresponsive regulations.

Telematics do offer the industry and its clients better outcomes, but currently road transport regulations do not provide sensible integration of industry led reform with the regulators'

requirements. For example, operators have comprehensive fatigue management systems in place, but regulators will not recognise these compliance efforts. Instead they continue to insist on a paper work diary, as it provides enforcement certainty. Operators want to do better, but the enforcement mindset is preventing systems with arguable better compliance outcomes from being approved. We actually face more onerous hurdles for operators who are using better practices. Our policy view is that adopting better fatigue management systems must not expose operators and drivers to more onerous duties, obligations or potential offence outcomes.

Recommendation 3

The ATA recommends that governments foster greater safety and compliance outcomes through the adoption of standards for optional electronic systems that are no more onerous than those which apply to the mandatory base-level paper-based work diary system. The ATA accepts the core elements of the paper work diary need to be replicated in an electronic system.

The ATA also believes that alternative time counting rules for electronic systems need to be established as part of the package recognising electronic systems. The new rules need to ensure adopters are not disadvantaged and current rounding rules are adjusted to recognise the increased precision of electronic measurement and set to prevent minor technical breaches due to enhanced measurement. Fatigue measurement is not a precise science, therefore, we need workable and fair rules for electronic work diaries.

In particular the ATA recommends that as a matter of policy, if all governments want to foster optimal use of electronic systems for recording and monitoring fatigue management, that all governments agree to ensure that inconsequential technical breaches (such as a 14 minute and 52 second rest) are ignored, provided that those breaches fall within an agreed scale and frequency.

Early adopters of electronic fatigue management and support systems have proven that they are willing to invest to assist drivers and schedulers to comply with their fatigue requirements. The outcome must be that adopting a supportive environment for drivers does not disadvantage the operator or their drivers. This is the basis of our position. We support the NTC comments about time counting in electronic systems, believing it should not disadvantage the driver or operator. In going forward, this requires resolution of the potential disadvantages that more precise measurement of time produces.

Recommendation 4

The ATA recommends that the use of a more robust monitoring tool like IAP be limited to part of court imposed penalty options. The program should be limited to operators with a proven history of the most serious and persistent offences and with a very high likely hood of re-offending through severe risk speed and/or fatigue offences.

The ATA does not support those who intentionally break the law to seek advantage over others. Accordingly removal from the highways, or forced remediation of serious rouge elements, will be supported, provided proper review and justice processes occurs. The ATA accepts that IAP may be a suitable tool to manage very high risks in some circumstances. However, we note that many vehicle crashes are the result of inappropriate speed for conditions and IAP does nothing for these circumstances. We believe that the provision of free to air speed zone data and potential for smart trucks to link this data to weather conditions and road inputs from radars may allow for a future where drivers are guided to making better informed judgements of appropriate speed for conditions. The ATA would also support the development of educational material about speed for conditions within the NTC's Safety work program.