



HVNL REVIEW CONSULTATION RIS CHAPTER 6: TECHNOLOGY AND DATA

AUSTRALIAN TRUCKING ASSOCIATION SUBMISSION 5 NOVEMBER 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. Introduction and summary

In June 2020, the National Transport Commission released the Heavy Vehicle National Law consultation regulation impact statement,¹ as well as a scenario setting out what the new law could look like.²

This submission responds to chapter 6 of the consultation RIS, which deals with technology and data.

In the ATA's view, options 6.1, 6.2a and 6.2b should proceed.

For option 6.1 (establishing an overarching data certifier), further consultation will be required on establishing the entity, setting the standards and the framework on data handling and privacy.

Technology solutions should be opt-in, otherwise the costs on industry have not been appropriately assessed.

The sub-options under 6.2 should remain on an opt-in, technology neutral basis.

Additional options should also be implemented:

Option 6.3 (online and employer access to driving infringements). This option would enable drivers and operators to access driving infringements through an online system. It would improve safety benefits by disincentivising dangerous driving and better enabling trucking operators to manage the safety of their vehicles.

Option 6.4 (electronic notification and processing of defect notices). This option would provide electronic notification of defect notices to operators.

¹ NTC, [HVNL review consultation regulation impact statement](#). Report prepared by frontier economics. June 2020a.

² NTC, [HVNL 2.0: a better law scenario](#). June 2020b.

3. Analysis of option 6.1: establish an overarching technology and data certifier under the HVNL

Option 6.1 would recognise a single technology and data assurance provider under the HVNL.³ It is proposed that the HVNL would recognise and support operators, the NHVR, police, road managers and authorities to share data.

Under this option, the HVNL would recognise an entity that would:

- Develop standards and specifications for heavy vehicle regulatory technology and data collection. The standards would include both prescriptive and performance-based elements and aim to be technology neutral
- Certify, approve, cancel and audit technology service providers to ensure it meets defined assurance levels
- Collect, store and disseminate data from certified technology providers and systems following clear data sharing rules. Data would be provided in detailed and aggregate form, depending on the purpose.
- Establish a clear and consistent approach to mandating the use of telematics and technology systems.
- Generates certificates of evidence when required for prosecution.⁴

Two possible entities are identified who could undertake the role: TCA or the NHVR.

Under this option, it is envisioned that the HVNL could recognise commercial systems already in use.

The single entity would be required for technology and data requiring high levels of assurance, such as for prosecution, whilst the NHVR would be empowered to recognise technology and data in other ways, such as industry development, profiling, road manager performance and opt-in record keeping (like EWDs).

The option would also include a clear framework on data handling and privacy provisions.

The RIS also states that the privacy provisions would formalise the use of aggregated and de-identified data for non-compliance, non-regulatory purposes to assist with asset and network planning by road authorities.

³ NTC. June 2020a. 65.

⁴ NTC. June 2020a. 65, 66.

ATA assessment of option 6.1

The RIS analysis of option 6.1 assumes:

- future decisions related to the use of technology for enforcement and compliance of the HVNL will be timelier, as the HVNL will not require specific legislative amendments
- the option would provide certainty for investment in technology and better enable implementation of technology-based solutions for risk-based safety management, reducing compliance costs
- may promote the concept of using a single device for multiple applications under the HVNL.

The ATA tentatively supports option 6.1, noting that further consultation would be necessary on the entity and the standards and framework that would be established.

There is insufficient information to select either the TCA or the NHVR as the appropriate entity (or to agree that these are the only options), although selecting an organisation other than the NHVR may strengthen the privacy provisions and the confidence in those provisions (with clearer structural separation).

Ultimately policies on the collection and use of data need to be clearly defined. Data collection, for the sake of data, is unlikely to achieve the intended aims. It is important that reform under option 6.1 ensures that data is only collected where the intended use is clear and that the privacy and data handling provisions align with only collecting data for its intended use. For example, data collected for road asset planning and management should not be used for enforcement.

The RIS assessment of this option is dependent on technology solutions not being made mandatory. Otherwise, the costs of mandatory implementation of technological devices on trucking operators has not been appropriately assessed.

As outlined in the joint ATA / NatRoad submission on the National Freight Data Hub Options Paper,⁵ any proposal for new regulation, charges or mandatory data requirements on industry would need to be subject to a Regulation Impact Statement, in line with the Australian Government Guide to Regulation.

This should include the cost of the proposals and a quantitative analysis of their regulatory burden.

⁵ ATA / NatRoad. [Submission to the National Freight Data Hub Options Discussion Paper](#). September 2020.

Table 1: Qualitative analysis of option 6.1

Industry		Government and community			Other
Compliance costs	Improvements in operational efficiency	Government admin costs	Enforcement and compliance monitoring costs	Avoided costs associated with reduced crashes	
1. Consultation RIS assessment of option 6.1					
Industry able to bring forward technology which delivers compliance cost savings on a more timely basis.	Industry able to bring forward technology which provides operational efficiencies on a more timely basis.	Potential benefit, depending on what technology and/or data uses are brought forward.	Potential benefit, depending on what technology and/or data uses are brought forward.	If this enables a more targeted and risk-based approach to enforcement, it should lead to a reduction in crashes.	This option may provide additional benefits if it promotes the use of single devices for multiple applications under the HVNL.
2. ATA assessment of option 6.1					
Agreed, assuming governments do not mandate technology	Agreed, assuming governments do not mandate technology	Agreed, assuming governments do not mandate technology	Benefits not clear.	Benefits not clear.	Benefits not clear.

4. Analysis of option 6.2: moving away from paper

Overview of option 6.2

Sub option	Description
6.2a	Ability to carry and produce electronic documentation
6.2b	Documentation to be produced in specified period

The RIS states that the sub options under option 6.2 are intended to address the regulatory burden that results from the requirement for heavy vehicle operators and drivers to print, store, carry and produce paper documentation. The options are intended to be technology neutral and opt in.⁶

The ATA supports the intent to reduce the regulatory burden from paper documentation, on an opt in and technology neutral basis.

Option 6.2a would permit all documents to be carried and produced electronically and the option to access documents via reference to the NHVR system. Requirements would include that the electronic document is to be accessible by drivers, operators, the NHVR and enforcement at the roadside.

Under option 6.2b some documentation would not be required to be accessible immediately when requested and instead operators and drivers would be required to produce it to the NHVR or police within a specified time. This option would not apply to all documentation types.

ATA assessment of options 6.2a and 6.2b

The ATA agrees with the RIS assessment that whilst there may be additional costs for installing technological solutions, the options would not be mandatory requirements. This would allow businesses to select the lowest cost option for complying with documentation requirements. **The ATA supports option 6.2a and 6.2b.**

Option 6.2a incorporates flexibility for work diary documentation. This should include the option of paper or electronic records, which meet required standards. The ATA's submission on chapter 5 of the RIS (fatigue) will examine the options for electronic work diaries in more detail.

⁶ NTC. June 2020a. 69.

Table 2: Qualitative analysis of option 6.2

Industry		Government and community		Other
Compliance costs	Improvements in operational efficiency	Government admin costs	Enforcement and compliance monitoring costs	Avoided costs associated with reduced crashes
1. Consultation RIS assessment of option 6.2a				
Reduced administrative compliance costs. Given opt in nature, would only see uptake if the compliance benefit outweighs the costs.		Potential benefit of facilitating greater compliance with permit conditions through alerting drivers if operating outside permit conditions.		
2. Consultation RIS assessment of option 6.2b				
Unclear impact. Depends on relative costs between collating documentation for the journey vs producing it after the fact.		Unclear impact.		Unclear impact. Depends on whether: <ul style="list-style-type: none"> • there is greater benefit in focussing roadside inspections on on-road safety issues; and • whether greater flexibility reduces compliance.
3. ATA assessment of options 6.2a and 6.2b				
These options would allow operators to select the lowest cost option for complying with documentation requirements, which is likely to produce lower costs for some operators.				Unclear.

5. Analysis of option 6.3: online and employer access to driving infringements (additional ATA proposed option)

Reform of the HVNL should also adopt online access to driving infringements to be made available to both the driver and their employer.

Without this option, trucking operators can be completely unaware they may be keeping a driver on the road who has incurred safety related driving infringements, despite knowledge of the behaviour/incident by relevant authorities.

In the ATA's view, privacy considerations on this issue are outweighed by safety considerations. A truck driver has chosen to drive for the trucking operator and is a paid professional, with an obligation to the operator and other road users to operate the heavy vehicle in a safe manner.

Improving the accessibility and knowledge of driving infringements for trucking operators would disincentivise dangerous driving behaviour and improve the ability of trucking operators to manage the safety of their vehicles.

Example employer notification systems

In **South Australia**, the online MySAGov system enables drivers and employers to swipe an employer's phone over the drivers phone and obtain the current status of the driver's license and points.

SA Police also have the discretion to inform the owners of a truck about dangerous and unsafe behaviour of a driver on the road.⁷

In **Queensland**, an organisation can register to receive a Driver Offence Notification to let them know when an employee or someone else commits an offence in their vehicle and is stopped at the roadside by police or a transport inspector. Notifications are sent by email.⁸

In **New South Wales**, the Heavy Vehicle Operator Safety Information Program (HVOSIP) is an online platform for the exchange of regulatory information between drivers, registered operators and organisations with obligations under the HVNL.⁹ Whilst the intent of the NSW scheme is welcome, ATA members report it is difficult to use and when compared to the Queensland scheme, needs improvement.

⁷ Information provided by the South Australian Road Transport Association. 2020.

⁸ Queensland Government Department of Transport and Main Roads. [Notification of a driver offence for organisations](#). Accessed 30 October 2020.

⁹ Transport for NSW. [Heavy Vehicle Operator Safety Information Program](#). Accessed 2 November 2020.

6. Analysis of option 6.4: electronic notification and processing of defect notices (additional ATA proposed option)

The HVNL should also provide the option for defect notices to be notified and cleared electronically.

Currently, notification of defect notices to trucking operators can be delayed. An operator may not receive notice of a defect (or clarification about the notice) until it is received by post. There may also be a delay from when the defect is issued to when notification is mailed out.

An electronic defect notice system should allow an operator to receive a defect notice on the same day it has been issued. This would enable the operator to organise appropriate repairs with less delay.

In alignment with option 11.1, if the defect is a non-safety case this system should also enable self-clearing defects. Where an inspection is required, it should enable quicker notification that this has been completed.

Example: defect clearances

A trucking operator received a defect notice for a faded number plate. The operator:

- Went to Service NSW to get a replacement plate (new number) and hand in the old plate
- The defect was then taken to an authorised inspection mechanic who attempted to clear the defect online. This was not successful.
- The operator then took the defect to an RMS inspection station, where they were advised the station could no longer clear the defect.
- Finally, the operator took it back to a Service NSW office to have the defect cleared.¹⁰

The overall process took up about four hours of the operators' time. For small operators or owner drivers, the requirement to visit a Service NSW office is not easily accessible in a heavy vehicle.

¹⁰ Information provided to the ATA, October 2020.

Table 3: Qualitative analysis of additional proposed options 6.3 and 6.4

Industry		Government and community		Other
Compliance costs	Improvements in operational efficiency	Government admin costs	Enforcement and compliance monitoring costs	Avoided costs associated with reduced crashes
1. ATA assessment of proposed additional option 6.3: online and employer access to driving infringements				
The existing SA system is fast, immediate and efficient. The Queensland system only requires minor administrative action to register.		May involve some set up costs.		Disincentivises dangerous driving and better enables trucking operators to manage the safety of their vehicles.
2. ATA assessment of proposed additional option 6.4: electronic notification and processing of defect notices				
Reduced paper processing for operators, drivers and government.	Improved ability for operators to plan repairs to fix defects.	Reduced paper processing for operators, drivers and government.		