

## **Response to RIS on Proposed National Framework on Heavy Vehicle Regulations**

### **Who we are**

BusNSW is the peak body of the private bus and coach industry in NSW. BusNSW represents around 700 bus operators across the state. These operators employ 15,000 staff and operate approximately 6,500 vehicles that service communities ranging from large cities to remote rural and regional communities.

### **Summary**

BusNSW welcomes the opportunity to comment on the Consultation RIS on a National Framework for Regulation, Registration and Licensing of Heavy Vehicles. While from a broad policy perspective, BusNSW supports the principle of a national framework for heavy vehicle regulation, BusNSW is concerned at the practical realities which would need to be overcome if this proposal were to have a net benefit to the community and industry.

There is an apparent disconnect between central agencies administering the bus and coach sector, and the national framework does not address this. Performance measures are dominated by road funding and truck accidents ahead of passenger safety, and of the economic, social and environmental benefits of growing public transport.

### **The Passenger and Freight Debate**

BusNSW acknowledges the draft RIS circulated by the Department of Infrastructure, Transport, Regional Development and Local Government. In particular we commend the issues raised in the RIS, at pages 23-24 of the document, which highlight the weaknesses of the current blanket application of Heavy Vehicle Regulation to the bus and coach sector. This goes to the heart of our members' concerns.

As the RIS correctly points out, the duplication and inconsistency of heavy vehicle laws across state boundaries costs industry, and hence the community, dearly. In the case of bus and coach regulation, the duplication even within state boundaries, costs millions and creates massive inefficiencies. The reason for

these problems lies in the lack of distinction between passenger and freight operations.

While one arm of government (rightly) imposes a range of detailed safety and other performance requirements for vehicles carrying passengers, other arms of government ignore these requirements and categorise buses and coaches as “heavy vehicles”, subject to the same requirements for vehicles carrying freight. The requirements in relation to this “heavy vehicle” regulation, while relevant in some areas, are often removed from the operational reality of our sector and, indeed, conflict with those regulations focused on passenger safety.

In short, the much smaller and specialised passenger transport sector is disadvantaged at the expense of the much larger “freight” industry. Indeed, it is unusual to hear the bus and coach sector mentioned in debates on heavy vehicle regulation. “Freight” is usually the term applied to both trucking and passenger transport so it is pleasing that in the current RIS this issue is raised as a concern.

Unless the current focus can shift and the very real differences between bus and truck sectors acknowledged in national heavy vehicle regulations, the industry fears that the current situation will simply be repeated, albeit at the national level, with little net benefit to the community and industry.

There are many examples BusNSW could cite to demonstrate the blanket and inappropriate imposition of regulations (primarily designed for trucking) to the bus and coach sector. For the purpose of this submission, two issues will be highlighted: fatigue and mass limits.

### **Example 1: Fatigue**

To become a bus operator in NSW involves implementing a detailed safety accreditation system requiring, among other things,

- Development of a Safety Management System
- Development of a Fatigue Management Plan
- Development of a Drug and Alcohol Program.

These requirements have been in place for some time, are administered (in NSW) by the Ministry of Transport, and are independently audited at least every three years by Ministry appointed auditors. They are not imposed on the trucking industry.

The recent national fatigue regulations, introduced in NSW by the RTA, ignore this accreditation regime and simply impose different fatigue requirements, primarily designed for the freight sector, on top of the current regulatory/accreditation controls. In other words, while one agency views the operational circumstances of buses and coaches (with its precious passenger cargo) as

special and worthy of special regulatory consideration, the other sees them simply as another heavy vehicle with little to distinguish them from trucks. The industry is invariably caught in the middle.

It is these sorts of duplication and inconsistencies that create inefficiency and unnecessary costs and which indirectly disadvantage the remote and regional communities that the bus and coach sector service.

Many of the requirements imposed by the two agencies create duplication and in some instances actually conflict. For example,

- Bus operators currently have their fatigue systems independently audited by auditors appointed by the Ministry of Transport. The NTC regime foresees quite separate fatigue auditors auditing fatigue management plans. For some bus operators the same fatigue issues will be separately audited separately by Ministry of Transport *and* RTA auditors.
- Bus operators have always had to maintain detailed driving hour records. The new fatigue regulations duplicate these requirements for heavy vehicle drivers, albeit via different recording mechanisms.

Some of these issues are currently being worked through between the RTA, Ministry of Transport and BusNSW, however the point remains: the same inappropriate regulation being initially imposed on all “heavy vehicles”.

Such problems extend beyond the detail of the regulation and highlight a broader structural issue. There is a vast difference between the operational reality of the bus and trucking sectors. Yet, because a bus is a vehicle of comparable dimensions to a truck, the same operational principles are seen to apply and the regulations imposed by the “heavy vehicle” regulator are the same.

This “one size fits all” approach can be seen in the new fatigue regulations. Night driving is a feature of the metropolitan bus industry. However, drivers who do such night driving work short shifts (typically 6 to 7 hours) in fixed rosters comprising regular midnight to dawn work. They are therefore in a regular night shift pattern of work, never experiencing the disruption to sleep patterns involved in switching from day work to night and back again. In the words of the NTC, their schedules are “regular and predictable”. In addition, again unlike trucking, bus drivers are required to have two 15 minute breaks each five and a half hours. This is vastly different from the relatively unregulated freight industry which often comprises long stretches of driving with minimal rest, yet the new regulations (and the restriction on night driving) are imposed on both sectors with little distinction.

This current regulatory approach has unintended consequences. For example, BusNSW has serious concerns that the new fatigue regime could genuinely

compromise safety, with current night bus drivers needing to undertake a mix of day and night shifts, and even extend the time a driver spends behind the wheel in one sitting. This could prove a deadly combination, certainly one less safe than simply night driving where fatigue is closely regulated and monitored, albeit by a different government agency.

In summary, buses on the one hand are subject to stringent requirements because they are public passenger vehicles, yet on the other hand, they are enmeshed in separate regulation (via a different government bureaucracy) because they are “heavy vehicles”. The solution is for the national regulator (whoever that may be) to recognise these differences and acknowledge that different operational realities exist between the bus and trucking sectors.

## **Example 2: Mass Limits**

Mass limits is another area where regulations designed for the reality of freight have been applied to the bus and coach sector irrespective of the reality of that sector.

RTA regulations in NSW impose a total weight limit of 16 tonnes for 2 axle buses and coaches. European manufacturers design 2 axle chassis to conform to European Union standards for Gross Vehicle Mass (GVM) of 18 tonnes. In order to conform to the current requirement, operators are forced to operate vehicles with fewer passengers than the bus is capable of holding or to implement other similarly inefficient measures, such as towing a trailer to carry passenger luggage.

Beyond the actual vehicle distinctions, this heavy vehicle regulation again ignores the operational differences between trucks and buses. Freight is loaded onto trucks in a controlled environment, the freight is then secured and the vehicle checked over a weightbridge before proceeding. The “freight” of a bus, by comparison, is virtually uncontrollable. Passengers board a bus or coach, sit in a seat usually of their choice, and move around to suit their preferences. For some time now buses and coaches have been penalised for minor breaches of mass limits, yet such minor variations, while easy to control in a truck’s freight, are virtually uncontrollable in terms of passenger weight. Again, a regulatory limit which makes perfect sense when applied to trucks, is applied to the other “heavy vehicle” sector, with inequitable results.

The indiscriminate application of regulation to all “heavy vehicles” works against Australia’s broader public policy. Buses carry passengers, leading to less cars on Australian roads, less carbon emissions and less road damage overall. Yet such benefits are lost when buses are viewed simply as “heavy vehicles” transporting [human] freight. If Australia is serious about improving economic, social and environmental performance outcomes – the supposed aim of the

current heavy vehicle reform agenda – these issues cannot continue to be ignored.

## **Conclusion and Recommendation**

The issues mentioned above highlight recent examples where buses and coaches have been caught between competing regulatory regimes. However, this problem is widespread and sometimes the negative impact it has borders on the nonsensical. By way of example, the definition of a “bus” varies between regulations administered by the heavy vehicle regulator (where a bus is a vehicle with 12 or more seats) and the passenger safety regulator (where a bus is a vehicle with 8 or more seats). This means that small businesses who are subject to detailed accreditation regimes as “bus operators”, are penalised by a separate agency for breaching regulations such as driving in “Bus Priority” lanes.

**Clearly there needs to be a fresh approach to ‘heavy vehicle’ regulation in Australia. In an attempt to design a “one size fits all” system, the passenger transport sector, far smaller in size and revenue than the freight sector, has up to this time lost out in terms of economic efficiency, regulatory duplication and administrative red tape.**

The potential move to a national administration provides the perfect opportunity to get this issue right for the future. If a system of national regulation is to work it needs to acknowledge the differences between the bus and truck sectors and, in consultation with the industry, to work out those issues which buses have in common with other heavy vehicles (e.g. vehicle maintenance, heavy vehicle inspections, etc) and those such as fatigue and mass limits, where different principles apply. Environmental, social and economic benefits of growing public transport need to be part of the national framework. Road, transport and infrastructure agencies need to recognise the differences between freight and passengers. Without such a move, the Australian Government’s desire to develop a transport system that is “safe, secure, efficient, reliable and integrated” will, at least in relation to the bus and coach sector, remain mere rhetoric.

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