



IMPACT OF NTC DRIVER FATIGUE ON NSW BUS INDUSTRY

Executive Summary

Current driver fatigue requirements were introduced in NSW following two catastrophic accidents involving long distance coaches in 1989. In response, the NSW Government introduced the toughest fatigue management laws in Australia. This included regulations covering both people (driver hours) and hardware (vehicle monitoring devices to record physical hours on bus/coach). Since these laws were introduced, there have been no further accidents of this kind and the safety record of NSW buses, in comparison with other modes of transport, is extremely good.

Despite this fact, following the Waterfall *rail* disaster in early 2003 the NSW Government decided to include bus operators in a requirement to implement a detailed Safety Management System. This SMS imposed additional measures for driver fatigue including a system for reporting instances of secondary employment and a Fatigue Management Plan. The SMS also requires operators to maintain records of drivers' hours (rosters and timetables) that must comply with the current limits. These systems are assessed annually and audited every three years by an auditor accredited by the Ministry of Transport (MOT). Failure to adhere to driving hour limits is deemed a "critical deficiency" and may lead to the suspension of an operator's accreditation.

In summary, the laws governing driver fatigue in NSW are extremely stringent, have been in place for some time and have worked well. If implemented in NSW, the NTC guidelines would change these requirements in a number of material ways and actually represent a diminution of current safety requirements. They would require operators to change existing work patterns, rostering arrangements, etc that have been in use in the industry for many years.

The current NTC proposal would involve a major re-organisation/education of the NSW bus industry, and one where the need for change remains unproven. BCA considers that if existing fatigue laws have and are continuing to work well, there is no need for change. This was the position put to the NSW Government (Minister of Transport) when the NTC proposal was originally mooted. The BCA was advised at that time that the NTC requirements, when finalised, would not seek to change current fatigue requirements for the NSW bus and coach industry.

The BCA was therefore disappointed when the final NTC proposal was made public. Current fatigue standards are used as the basis for a number of Ministry requirements in bus contracts and accreditation. The NTC proposal therefore represents a potential cost to the NSW Government, both in terms of change event clauses in contracts and less efficient work systems. If accepted, the NTC proposal

would also have major implications for Government run buses (i.e. State Transit Authority) in this state.

We are aware that the NTC proposal will only become law in NSW if adopted by the RTA. We would urge the RTA not to adopt these requirements which will have a major and negative impact on both the cost and the safety of the industry. Our specific objections to the proposal are detailed below.

1. Work Diaries

The NTC requirements would represent a significant change in the requirement to record driver hours. Under current NSW requirements drivers are only required to record their hours in a logbook where the journey involves the driver travelling beyond 100km radial distance from the depot.

The NTC guidelines would extend this requirement to all drivers irrespective of the hours worked or the distance travelled. As outlined in NTC's Bus Driver Handbook, "if you are driving in NSW... regardless of distance travelled, you must record all work and rest activities in a work diary."

The BCA considers this extension to all bus drivers to be bureaucratic, creating an extra workload on drivers and operators irrespective of the risk of fatigue. Medium to high risk drivers already meet the NTC requirement (albeit via a Log Book rather than a Work Diary). The hours worked by low risk drivers (i.e. regular route service) can be easily calculated via an examination of rosters and timetables. Such information must be kept as a condition of NSW accreditation and these systems are audited by independent auditors accredited by the NSW Government. The introduction of a requirement for *all* bus drivers, irrespective of risk, to complete a Work Diary each day is unnecessary and would represent a significant administrative cost burden to issue, monitor, complete and file the paperwork.

If accepted in NSW, it is likely that unions will seek to have additional paid time incorporated into bus drivers' shifts to allow for completion of the Diary. As such the Diary system would reduce the productivity of bus drivers and add to the cost of operating bus services, because more time will need to be allocated for paperwork, thus reducing the amount of time that a driver will actually drive within a day's work. Any driver shifts which are close to the shift hours limits would also need to be reconstructed, because the additional time required to fill out the Diary will be counted as 'time worked' and will need to be allowed for within driving hour limits.

The BCA understands that the RTA is giving consideration to exempting metropolitan bus drivers from the requirement to maintain a Work Diary, however, this is insufficient. The *majority* of rural and regional bus operators, like metro operators, simply run school bus and or regular route services under contract i.e. fixed and local shifts. These also need to be exempted from the requirement for a Work Diary. If Work Diaries are required, they need to be limited to those drivers who currently complete a Log Book i.e. those who drive more than 100km from their depot.

2. Less Rest Breaks

In its Guidelines the NTC envisages that the majority of bus and coach operations will fall within the Standard Hours (Bus and Coach Sector) yet this NTC Standard represents a diminution in safety in NSW. By way of example, current NSW requirements are for one 30 minute (or two 15 minute) rest periods every five and a half hours worked whereas the NTC requirements require only a 15 minute break over the same period. In a typical metropolitan route bus setting it is arguable whether a bus driver could take part in a meal and visit a toilet within such a short timeframe.

Under the NTC proposal, a driver could be rostered for a shift of 7 hours 45 minutes (a typical day in a 38 hour week) with only one 15 minute break, where currently 30 minutes of rest is required. The NTC proposal also reduces the stationary rest time a driver must spend away from a vehicle within a 24 hour period from 8 to 7 hours. The BCA fails to understand how these reductions in actual rest time will improve driver fatigue.

3. NightRide

The biggest problem in terms of hours relates to night driving. Currently in NSW there is no distinction drawn between day and night driving. The driving hour limits (e.g. 12 hours off in 24) are essentially the same. The NTC Standard Hours (Bus and Coach Sector) make a distinction between day and night driving and require 6 “night rest breaks” off in 7. A “night rest break” is defined as “a period of 7 continuous hours stationary rest time taken between the hours of 10pm and 8am.”

Currently in NSW, metropolitan bus operators conduct night driving (midnight to dawn), mainly on “NightRide” services which are a replacement for CityRail trains that do not operate overnight. These services operate 7 nights a week, 365 nights a year. NightRide bus drivers receive penalty rates and usually choose to work night shifts for family reasons. They work fixed rosters comprising regular midnight to dawn work. Such staff are therefore in a regular night shift pattern of work and sleep, never having to experience the disruption of sleep patterns involved in switching from day work to night and back again. In line with one of the recommendations of the NTC, their schedules are “regular and predictable”.

The NTC Standard hours (Bus and Coach sector) would severely impact on NightRide services because the new definition of ‘night rests’ precludes the rostering of regular midnight to dawn work, even though it has been common practice for over 20 years. Bus operators also have the option of choosing the other time limits imposed by the Basic Fatigue Management option or the “Standard Hours” limits which apply to truck drivers. These are more generous than the bus hours but both still require 2 night rest breaks plus 2 night rest breaks on consecutive days i.e. 4 ‘night rests’ within every 14 day period, or a maximum of 10 night shifts worked within each fortnight.

For bus operators, compliance with these limits would require changes to rostering and increased costs to employ additional drivers to meet Government Contract commitments to provide NightRide services. It is difficult to provide an exact cost

figure associated with the changes to NightRide services. However, using the example of one smaller metropolitan operator which employs 8 NightRide drivers, the proposal to limit NightRide drivers to a minimum of 10 days per fortnight would require the employment of an extra permanent NightRide driver as well as a part-time driver (weekends). NightRide roster costs are expected to increase by 12.5% plus the associated on-costs of having an additional employee on the payroll. Such costs would be multiplied many times over in the case of larger private operators and the STA. The Ministry of Transport would likely have to fund such cost increases through the “change event” clause in these operators’ contracts.

These figures do not include special events which occur periodically throughout the year. Nor do they include absences due to sick leave. The current practice of filling a vacant night shift by calling in a rostered-off NightRide driver already accustomed to night driving is considered far safer than having to call on a driver normally performing day work to fill the gap. However, such a practice would no longer be permitted under the NTC proposal. Bus companies operating NightRide contracts need to retain the flexibility they currently have under existing regulations to roster NightRide drivers for *more than* 10 night shifts in a fortnight when necessary, to cater for situations such as busy weekends and to cover absences due to sick leave. The industry genuinely fears that the potential mix of day and night shifts for individual drivers as a consequence of the NTC proposal may have a serious safety impact on bus operations in NSW.

NightRide shifts are generally shorter than regular 7.6 hour shifts. Many last between 6.5 and 7 hours. Many drivers choose to work NightRide since, despite the shorter hours, they earn more than a regular 38 hour day driver. If the NightRide roster were changed in line with the NTC proposal, drivers would earn around 30 to 33 hours per week, making the work less attractive. There is already a significant shortage of bus drivers in NSW and it is likely to take time to find the additional drivers needed to make up this shortfall, so leading to the cancellation of some services.

4. Broader Impact

However, if implemented in NSW, the new requirements have the potential to impact on all bus drivers (and not simply NightRide). This is because of the definition of “night rest break” in the NTC requirements which, as mentioned, requires at least 7 hours off between 10pm and 8 am. Many day shift drivers start their shift before 5 am (e.g. 4.50 am) and finish in the early afternoon. According to the NTC definition even these drivers would be in breach since they have failed to have a full 7 hours break between the hours of 10pm and 8am. The same applies to drivers doing the afternoon/evening shifts who may, for example, start work in the afternoon peak and finish at 1.10 am (and thereby fall short of the 7 hour break between 10pm and 8am). All these scenarios are accommodated by the current NSW fatigue requirements with their emphasis on providing a suitable quantity of rest hours.

This definition of ‘night rest’ will place a new limitation on the operation of weekend Railway Bus contracts for RailCorp (CityRail), which are undertaken regularly by many bus companies when train lines are closed for trackwork. Trains normally start operating very early in the morning, so the Railway Buses that replace them do

the same, with the majority of Railway Bus shifts on the AM roster commencing at or before 4.00am. The current practice with Railway Buses is to roster such shifts to drivers who are accustomed to early starts, typically drivers who start prior to 5.00am on normal weekdays. In this way the drivers can work 11 or 12 early shifts in a fortnight and 'bank' their days off for weekends when there is no trackwork.

Under the new definition of 'night rest' such drivers would have to have 4 night rests in a fortnight and would no longer be able to perform such work. Given the large size of these Railway Bus contracts this will significantly impact on the ability of the bus industry to supply the volume of buses that RailCorp needs to convey their passengers during trackwork.

This issue is likely to be of even greater significance for the STA whose drivers generally work a broader spread of hours on their regular routes than those of private operators.

5. Bureaucracy and Confusion

Under the Guidelines operators would be able to avoid the "Standard Hour" limits by applying for an "Advanced Fatigue Management Program". This Program seems to allow operators to design their own roster which is then approved by a "Fatigue Authorities Panel". It would seem that the hours are only approved where the operator is accredited and implements a further 10 AFM standards including "scheduling and rostering, operating limits, readiness for duty, health, management practices, workplace conditions, fatigue knowledge and awareness, responsibilities, records and documentation, and internal review."

For NSW, this "alternative" regime would represent another detailed accreditation scheme on top of an already detailed state accreditation system which involves fatigue management plans, driving hour limits, vehicle monitoring devices and other measures. Also, as mentioned, the definition of "night rest" may mean that application for the Advanced Fatigue Program may be required not only for operators undertaking night driving but even for some doing regular route services (see 4 above).

There seems little information available from NTC as to exactly who and how the new regime will be enforced. Currently in NSW driving hours are strictly enforced and, indeed, audited as a mandatory condition of accreditation. However, it is the raft of NSW fatigue requirements (included in an operator's Safety Management System) that is currently audited. There is very little information available on how the current NSW and proposed national scheme would fit together. What parts of the NSW (SMS) regime would remain? What parts would be replaced? Will the new requirements be included in the Ministry of Transport's SMS audits or will they sit on top of the current requirements? Will the "Fatigue Authorities Panel" enforce the total package? Who makes up this Fatigue Authorities Panel? Will fatigue enforcement be split between the Ministry (SMS) and the RTA? These questions remain unanswered and, if implemented by the RTA, the NTC proposal runs the risk of imposing yet another piecemeal regime on top of an already heavily regulated area.

Conclusion

The proposed NTC guidelines have been developed with little or no recognition for the NSW bus and coach industry regime and its outcomes. The new system is extremely confusing with its range of alternative hour arrangements (Standard Hours, Standard Hours - Bus and Coach, Basic Fatigue Management, Advanced Fatigue Management and a further three standards for “two-up” driving). If the rationale of the guidelines was national consistency then the proposal has failed, with operators able to opt for widely varying driver hours via the range of alternatives available. The NTC proposal would allow for a swathe of alternative hour arrangements in place of the current system which applies to everyone, which everyone understands and which works.

The new measures will involve additional training not only for drivers (Work Diaries) but also for operators and Ministry accredited auditors (to understand the complex range of driving hours allowed). For operators forced into Basic Fatigue Management or Advanced Fatigue Management, we understand drivers would require formal one day vocational training at a cost of around \$120 per driver (plus a day’s leave), while managers scheduling driver hours would require a 2 day training course costing around \$350 per person. It is unclear who would fund such training. Such operators would need to be audited on application to the RTA and then have their fatigue systems audited annually. Presumably this is in addition to the 3 yearly SMS audits conducted by Ministry auditors.

It is proposed that this confusing regime replace arrangements in NSW which are well understood, are consistent across the bus and coach sector, have been operating effectively for many years, and are the basis for rostering and timetabling throughout the industry.

BCA considers that the NTC changes have been designed primarily for the trucking industry. Bus options have been included as “add-ons” without in-depth analysis or any consultation with NSW Bus Industry stakeholders. Given the excellent safety record of the industry in NSW, a case for change has not been made; the changes are bureaucratic and will require a significant outlay in terms of time and money for the industry to comply. For these reasons, the BCA urges the RTA not to adopt the measures.

Recommendations

1. That the current arrangements for Log Books in NSW be retained in place of the Work Diary.
2. If the Work Diary is to be introduced in NSW, that operators (*both metro and rural*) who run contracted services for the Government be exempted from the requirement, except where they undertake charter work that involves drivers driving beyond 100km from their depot.
3. That current driving hour restrictions that apply in NSW be retained to ensure the safe continuation of NightRide and other special services, and to prevent

roster disruption, costs to Government via contract changes and general confusion and inconsistency within the industry.

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