Heavy Vehicle Driver Fatigue Reform
In Australia

Paul Sullivan
Chief Officer - Strategy
transport reform journey

- Australia’s policy challenges
- reform in a federation
- heavy vehicle driver fatigue reform
- reform implementation challenges
- what next?
Policy challenge: tyranny of distance

- 815,959 kms of road
- 22 million population (80% live in cities)
- fragmented industry
Policy challenge: break of gauge

- three rail gauges in Australia
Policy challenge: state borders

- Barney’s barrow (1952)
- Hughes & Vale

Dear Sir,

Road Maintenance (Contribution) Act, 1958

Receipt is acknowledged of your letter of 16th June, 1960 in which you state among other things that payments of charges under the above Act are being made by you under protest and involuntarily.

Yours faithfully,

[Signature]

A reply from the Commissioner for the Department of Motor Transport, NSW.
Policy challenge: Regulatory barriers

- Razorback blockade (1979)
Reform: National Transport Commission

- formed 1991
- independent commission
- intergovernmental agreement
- cooperative federalism!
vision
“the best transport outcomes for Australia”

mission
“to lead regulatory and operational reform nationally to meet the ‘end-to-end’ supply chain needs of transport users and the broader community for safe, efficient and sustainable land transport”

role
“to work closely in partnership with all stakeholders to develop and implement more consistent, practical and effective land transport policies, laws and practices”

Reform: NTC role
“optimal balance”
Reform: “best practice” model

- 3 year strategic plan and work programme
- discussion paper, draft and final RIS
- public consultation
- model legislation
- maintenance and review
Integrated transport system: a journey

- **1950s**: Hughes & Vale
- **1970s**: Razorback
- **1990s**: national reform
- **2010**: modal regulators
- **All modes, national market**
Reform: Work programme in 2010

- Heavy Vehicle Pricing (MDL)
- National Heavy Vehicle Regulator
- Compliance Strategy
- National Rail Safety Regulator
- Supply Chain Productivity
- Land Transport Safety Strategy
- Moving People Strategy
- Monitor and maintain laws
- Reform evaluations
Reform: implementation is hard ...

- national reform is like ‘herding cats’
- nine governments (state, territory, federal)
- 700 local councils

IGA “get out of jail” clause:
“in exceptional circumstances……due to policy or practical constraints…..does not intend or is unable to implement……advise the Commission and the Council”
Reform: safety progress

- road safety initiatives
- growing freight task (B-doubles)
Reform: safety challenge

Fatal crash rate per 100 million vehicle-kms for Australia, Canada, USA, and Switzerland from 2001 to 2007.

- **Australia** (red line)
- **Canada** (olive green line)
- **USA** (gray line)
- **Switzerland** (blue line)

**Fatal truck crashes per 100 million vehicle-kms**
Reform: single HV fatalities
Reform: time-of-day impacts
Reform: fatigue + speed

(NTI 1998-2002, truck 500-1499 kms from base)
Reform: early focus was “red tape”

- **1999: national laws, but with flaws**
  - only NSW, Vic, Qld, SA, Tas
  - WA/NT OHS laws
  - focus on drivers
  - based on geography, not fatigue science

- **Better laws?**
Reform: case law

- OHS agencies slow to respond to “off-site” workplace safety
- inter-agency cooperation
- some prosecutions ... after big fatal crashes
Reform: *Highway to Hell*

- "Paul Barry, 60 Minutes … you must be pretty tired, mate. You have driven 24 hours, 23 hours and you've been behind the wheel for 22 of them." – Channel 9, April 24, 2005
Reform: momentum for change

- Growing body of research
  - not just “time on task”
  - circadian rhythms
  - accumulated sleep deficit
- Community concern/media coverage
- Ministerial pressure to “do something”

74% of drivers think fatigue is a serious problem in the road freight industry
Reform: underpinning policy principles

- must be based on science
  - but overlay pragmaticism
- address the problem, not the symptoms
  - assign responsibilities to all parties in the chain
- flexibility for “oncers”
  - more flexibility for accountability
Reform: advice sought from experts in sleep, shiftwork and human performance

FATIGUE EXPERTS

- Dr Drew Dawson, Centre for Sleep Research, University of Adelaide
- Dr Anne-Marie Feyer, Department of Preventive and Social Medicine, University of Otago, NZ
- Dr Philippa Gander, Sleep/Wake Research Centre, University of Otago, NZ
- Dr Laurence Hartley, Institute for Research in Safety & Transport, Murdoch University
- Dr Narelle Haworth, Monash University Accident Research Centre
- Dr Ann Williamson, School of Psychology, University of NSW

- Peter Baas, Transport Engineering Research NZ
- Darren Nolan, Nolan's Interstate Transport
- Chris Foley, LTSA NZ
- Chris Brooks, Australian Transport Safety Bureau
- Barry Moore (chair), NRTC
Reform: FEG design principles

- it’s about adequate sleep and rest, not just work
- prevent sleep loss adding up
- time of day is important (circadian biological clock)
- if you are not resting, you are working (eg: loading)
- preventative “power naps” can help
Reform: one-size-doesn’t fit-all

- **three work/rest options**
  - **Standard Hours**
    - basic work and rest limits
  - **Basic Fatigue Management (BFM)**
    - more flexible work hours linked to accreditation
  - **Advanced Fatigue Management (AFM)**
    - create your own fatigue management system and work hours linked to accreditation
Reform: the proposed package

- supported by –
  - general duty to manage fatigue
  - chain of responsibility
  - risk-based categorisation of offences
  - 3rd party accreditation and training
  - strengthened record-keeping
... poor proxy for fatigue

Reform: old system

Old system

TFMS

hours

16 15 14 13 12 11 10 9 8 7 6 5 4 3 2 1

Working

Driving

Driving

TFMS
Reform: changes to work and rest

- long rest break (+ one hour)
- driving and working (are the same thing)
- night driving restricted (BFM)
- two consecutive nights rest (in 14 days)
- accredited standards to manage risks
- more flexible short breaks
Reform: managing fatigue risks

“more responsibility = more flexibility”
Reform: Basic Fatigue Management

- greater say in work and rest hours … BUT
  - comply with 6 audited BFM standards
  - third party audits
  - vocational training
Reform: Advanced Fatigue Management

- design schedule … BUT
  - comply with 10 audited AFM standards
  - third party audits
  - vocational training
  - approval from Fatigue Experts
  - high risk applications (eg: remote area livestock)
Reform: Chain of Responsibility

- Drivers ‘carrying the can’ for the failures of others
  - setting unrealistic schedules
  - poor scheduling, rosters
  - leaving drivers waiting around to load or unload
Reform: Chain of Responsibility

Consigning

Loading

Operating

Scheduling

Other activities affecting road safety, eg auditor

Driving

Receiving
Reform: reasonable steps defence

- IDENTIFY RISK: What could happen?
- ASSESS RISK: How likely is it to happen?
- CONTROL RISK: What can we do about it?
- MONITOR & REVIEW: What do we need to change?
Reform: Work Vs. Rest

**Work time**
- is the time a driver spends **driving** a heavy vehicle (on or off the road) and
- any other time a driver spends **doing tasks** related to the operation of the heavy vehicle e.g.
  - Fueling and cleaning
  - Inspecting and servicing
  - Attending to the load
  - Loading and unloading
  - Waiting in a Queue etc

**Rest time**
- is time that is **not work time**
EVERYONE in the supply chain has a ‘general duty’ to manage driver fatigue

- Drivers must not work while fatigued
- Everyone else in the supply chain must make sure drivers do not work while fatigued
Reform: a new work diary

- strengthened record-keeping:
  - odometer reading
Reform: risk-based penalties
Reform: key issues

- consensus on general ‘intent’
- persistent industry themes
  - drivers ‘carry the can’
  - flexibility to manage “oncers”
  - not more hours
  - not ready for OHS approach
  - penalties should “fit the crime”
- but some polarised views
  - science versus “experience” (eg: long rest break)
  - 21,000 more rest areas …
  - less hours = higher cost of bread and milk
  - AFM is “unsafe”
Reform: winning hearts and minds

- long haul trucking lobby
- rural lobby
- safety advocates
- unions
- media (trade and mainstream)
NTC Model of Cooperation

Understand before acting
Build and maintain relationships with key stakeholders through regular ‘check-in’ discussions.

Involve before deciding
All stakeholders impacted by a reform should be consulted to develop policy and, where possible, resolve differences before public comment is sought.

Discuss before implementing
Use public consultation to seek wider public views on issues which could not be resolved during the policy development process.

Share before announcing
Ensure there are ‘no surprises’. Generally, stakeholders should not learn of key policy decisions and statements through the media or other channels.
Reform: industry support … conditional

- Stuart St Clair, ATA CEO
Reform: outcome of Vote

- 9 Ministers voted in favour but ....
Implementation: National inconsistency

- OH&S regs
- Demerits policy
- ACT – exempt
- AFM outer limit?
- no reasonable steps
defence or split rest
breaks (BFM)
Implementation: rest areas

- need for improvement
- rest areas guidelines
  - standard for road agencies
  - already approved and used
- national rest areas audit 2007
- targeted funding
Implementation: communications

- The NTC supported implementation
  - Information bulletins/DVD
  - Advertising campaign
  - Fatigue and napping guidelines
  - Driver dashboard cards
  - Self-assessment checklists
  - Daily and weekly work/rest planning
  - Training and awareness presentations
  - Promotional material

- www.ntc.gov.au
Implementation: truckies shutdown!

- fringe groups (and infighting …)
- list of demands (disband NTC No.1)

Fresh Produce Under Threat

Truckies protest could shut down food supply transport

WHEN Miel Patel woke this morning, he hoped Australia would be standing still. Instead of Lockyer Valley trucks taking produce to market, Mr Patel planned many to be at mechanic shops or in sheds.

"At midnight we will shut down trucks right across Australia," the National Road Transport Forum chief organiser said yesterday.

"We're looking at 50 per cent of drivers as an initial start-up figure and in the next few days it will grow. There are a lot of drivers who have already taken annual leave."

Richmond in north-west Queensland, said drivers were outraged by the National Transport Commission's (NTC) recommendation to increase multi-combination vehicles (B-doubles, road trains) registration fees and the
Implementation: no shutdown

“of the estimated 65,000 owner drivers across the country, fewer than 1,000 joined the rallies.”

Truckies’ two-week protest strike falls flat

Elizabeth Gosch

A PLANNED nationwide two-week strike by truck drivers to protest against poor pay, high fuel prices and increased registration costs has failed to gain widespread support.

While thousands of truckers were expected to join protest convoys in each of the state capitals yesterday morning, the financial reality of losing a day’s work kept many drivers away.

Of the estimated 65,000 owner-drivers across the country, fewer than 1000 joined the rallies.

The rally was also hotly contested by the disbanding of the National Transport Commission, the scrapping of electronic work diaries and no demerit points on logbook and driving hours regulations breaches.

“We’ve really got to do this (strike) to highlight the plight of the industry. Hopefully the Government will come to the table fairly quickly,” he said.

Neither the Australian Trucking Association nor the 10,000-member Transport Workers Union supported the action.

ATA chairman Trevor Martyn
implementation: the devil in the detail

- counting time
- BFM flexibility …
- exemptions
Next steps: national HV Regulator

- national regulation
- consistent enforcement
- better safety and productivity
What next: Electronic Work Diary

- industry has technology but can’t use it as EWD
- compliance and risk-management potential
- push from some to lift standards (mandate?)
Next steps: EWD pilot

- “equivalent” minimum standard for EWDs
  - performance-based
  - encourage wide take-up (existing technology)
  - allows for roadside enforcement
  - no work diary needed
- pilot to inform policy positions
  - roadside printer?
  - sanction policies (one minute robots?)
- court sanctions
  - mandate EWD for offenders
What next: Safe payments?

- NTC report to Ministers
  - poor payment methods/rates can influence safety (hours, maintenance, speed)
  - owner-drivers have low bargaining power
  - voluntary approach has failed
- Commonwealth proposal expected 2010
What next: more risk-based approach?

- address regulatory overlap and compliance costs
- journey towards a more risk-based approach (eg: AFM)?
What next: Compliance strategy?

• reward good operators
  - self-compliance “rewarded”
  - SMART “intelligence-based” targeted enforcement (less on-road interceptions)
  - operator rating systems?
  - informed purchase of freight services
What next: community confidence = productivity

**Concerns whilst driving with Freight Vehicles**

- Freight vehicle drivers who tail gate: 83% (+QLD)
- Freight vehicles not staying in their own lanes: 77%
- Freight vehicle speed: 75% (-VIC, +NSW)
- Driving next to freight vehicles in wet or windy weather: 74%
- Rocks and chips flying up from freight vehicles: 73%
- Driving behind freight vehicles blocks your view: 72%
- Freight truck driver inexperience: 71%
- Difficulty in changing lanes due to length and size of...: 64%
- Road deterioration due to freight vehicle usage: 63% (-WA)
- Passing freight vehicles: 58%
- Concern about things falling off while driving behind.: 57% (-SA)
- Number of freight vehicles on the roads while you...: 55%
- Possibility to topple over when going through...: 52%
- Emissions of freight vehicles: 50%
- Noise pollution created by freight vehicles: 40% - Total Regional

**#1 Concern whilst driving with Freight Vehicles**

- Q24 Rank #1 Nationally n= 1436 - % Respondents
  - 22%
  - 11%
  - 15%
  - 7%
  - 6%
  - 4%
  - 13%
  - 3%
  - 5%
  - 3%
  - 3%
  - 3%
  - 2%
  - 1%
  - 1%
Implementation: Operation Seams

CHAIN OF RESPONSIBILITY (2008)

- following conviction the carrier was dropped by freight owner
- freight owner changed its scheduling practices and introduced electronic monitoring for its subcontractors
Implementation: Chain of Responsibility

- audits of grain overloading in NSW
- compliance significantly improved

![Graph showing compliance improvement over the years]
Implementation: retail code of conduct

- Safe driving plans
- Timeslot booking
- Monitor transit times
- Random drug and alcohol tests
- Standards for treatment of drivers (including rest facilities if delayed)
In a nutshell...

- changing the culture – everyone’s responsible
- focus on fatigue risks, not hours
- flexibility if risks are managed
- wider penalty toolkit

it’s all about taking… reasonable steps