17 June 2016

Mr Paul Retter AM
Chief Executive and Commissioner
National Transport Commission
Level 15/628 Bourke Street
Melbourne VIC 3000
Via email: enquiries@ntc.gov.au

Enforcement Approaches for Speeding Heavy Vehicles Discussion Paper: May 2016

Dear Paul

I am writing to you on behalf of the members and associates of Gas Energy Australia (GEA) concerning the NTC's May 2016 Enforcement Approaches for Speeding Heavy Vehicles Discussion Paper. Gas Energy Australia applauds the NTC for exploring alternate approaches to enforce speed limits for heavy vehicles on Australian roads. However, GEA would prefer to see more focus on effecting behavioral change to reduce heavy vehicle incidents than the Discussion Paper's principal focus on making prosecution easier.

General comments

GEA contends that responsible transport companies manage driver behavior more strictly than would be the case under the proposals outlined in the Discussion Paper, and that enhanced spatial information supporting in-vehicle monitoring and telematics could improve this even more. In addition, GEA is concerned that the data used to draw the conclusions contained in Section 1 of the Discussion Paper is confusing.

GEA's review of the proposed expanded compliance and enforcement tools highlights potential issues with the grounding of Dangerous Goods (DGs) on a road-side and suggests that if an evidentiary provision for deeming a speed limiter non-compliant is recommended by the NTC to the Ministerial Council, then it should also recommend that a non-prescriptive reasonable steps defence be made available to both driver and operator.

Responsible transport companies use in-vehicle monitoring and telematics and set tight tolerances on these systems (for example, exceedance to 103km/hr will raise an alarm within the cab and a rise in speed to 105km/hr will result in an investigation by company management) which allows intervention to correct behaviors. The low tolerances set by responsible transport companies take into account other circumstances such as a steep downhill descent, whether brakes are applied, and the condition of the road surface or traffic conditions at the time.

While the spatial information and associated speed limits allocated to road sections are more readily available for highways, open source data from all roads management agencies should make it possible to establish a comprehensive monitoring system allowing the management of over speed not only at the extreme range but also in the low speed limit sections such as 40km/hr school zones where there is pedestrian traffic.

Consequently, GEA **recommends** road management agencies make available free open source spatial data to facilitate enhancement of existing in-vehicle monitoring and telematics systems.

The data provided in Section 1 of the Discussion Paper relates to a maximum speed enforcement limit for heavy vehicles of 100 km/h, with the assumptions based on this limit. However, the Discussion Paper goes on to explore enforcement using speed limiters technology based on a 115km/hr level, without any analysis of the exceedances at this level. This raises a question as to how many exceedances occurred at the 115km/hr level in the 10,252 samples reported and further would these exceedances have been captured by roadside enforcement. Section 1 does identify 286 instances of speeding in excess of 110 km/h. Further analysis of these 286 instances by vehicle and usage would prove beneficial in targeting enforcement activities.

In summary, GEA **recommends** more emphasis be placed on identifying vehicle and usage issues to help design measures to modify driver behavior rather than on a blanket punitive approach.

Proposal 1 comments

The Discussion Paper explores an evidentiary provision that deems a speed limiter noncompliant if a heavy vehicle is detected travelling at or above 115 km/hr and further that speeding can be both a driver and a vehicle related offence.

As identified in the Discussion Paper, NSW legislation recognises that a lengthy downhill gradient may be a defence for a compliant speed limiter to exceed the 115km/h level and the Discussion Paper goes on to ask what defences, if any, should apply if an evidentiary provision that deems a speed limiter noncompliant is introduced. In responding to this question, there are two perspectives to consider, one from the person in control of the business and the defences available to them and the second from the person in control of the heavy vehicle at the time of the offence and the defences available to them.

The person in control of the business has an obligation to provide the person in control of the vehicle with a compliant speed limiter. As such, a suitable defence against prosecution would include being able to demonstrate regular maintenance checks which include confirming speed limiter settings, monitoring of driver performance using other in-vehicle or telematics system and a chain of custody for speed limiter compliance which is reasonable.

The person in control of the heavy vehicle at the time of the detection should be able to rely on environmental factors for a defence such as a steep downhill descent, faulty brakes, the condition of the road surface or traffic conditions at the time, or the identification of a non-compliant speed limiter.

GEA urges caution in defining a limited prescriptive defence criteria for the purposes of securing a conviction and **recommends** a reasonable steps defence should be applied in this case.

Proposal 2 comments

GEA offers the following observations in relation to the proposal to ground vehicles. If a vehicle is carrying a gaseous fuel DG, there are three types of vehicle load combinations to consider.

1. where the DG is in a tank on a trailer and coupled to a prime mover
2. where the DG is in a tank on the rigid body of a heavy vehicle
3. where the DG is in multiple tanks

If the vehicle is grounded, it is assumed that it must be inspected, repaired and tested to an appropriate standard before it can be returned to service. Whereas with most loads it is simply a matter of towing a defective vehicle, with DGs, safe handling of the load must be considered. In the case of load combinations 2 and 3 above, a vehicle would need its load removed before repairs or investigations in a workshop are undertaken. If this occurs on the roadside, it places extra risk as the transfer is being undertaken in a potentially high traffic uncontrolled environment. In relation to the operation of a trailer, while the prime mover can be changed, not all prime movers are suitable for DG carriage, and there is an increased risk the longer the tanker remains on the roadside. While the Discussion Paper explores liability issues, fundamental to grounding a vehicle is an increased public safety risk.

Consequently, GEA **does not support** immediately grounding heavy vehicles travelling 15km/hr over the posted or default speed limits because of the unintended consequences and increased public safety risk outlined above for DG transport.

Conclusions and recommendations

GEA **recommends** more emphasis be placed on identifying vehicle and usage issues rather than a blanket punitive approach.

GEA **recommends** road management agencies make available free open source spatial data to enhance existing in-vehicle monitoring and telematics systems.

In relation to Proposal 1, GEA urges caution in defining a limited prescriptive defence criteria for the purposes of securing a conviction and **recommends** a reasonable steps defence should be applied in this case.

GEA **does not support** Proposal 2 of the discussion paper to immediately ground heavy vehicles travelling 15km/hr over the posted or default speed limits because of the unintended consequences and enhanced public safety risk outlined above for DG transport.

GEA welcomes your consideration of the important issues raised in this submission and looks forward to continuing to work with the NTC in the future.

For your consideration.

Yours sincerely

John Griffiths
Chief Executive Officer