

# 9 Road transport

Transport infrastructure and services are important factors in determining the efficiency and growth of the economy. Not only does transport meet the needs of industry, but it also helps fulfil the social needs of both urban and rural communities. A transport sector that delivers an economically efficient service can give Australia a competitive advantage over producers in other countries.

Road transport is increasingly providing these services. The annual road freight task grew from 90 billion tonne-kilometres (a tonne-kilometre equals one tonne moved one kilometre) in 1991 to approximately 130 billion tonne-kilometres in 1999. Road transport's share of the domestic freight task (as measured in tonne-kilometres) rose from 33 per cent in 1990-91 to 36 per cent in 1998-99. Further, on a tonne-kilometre per person basis, the road transport sector in Australia is much larger than that in most developed countries. The road freight task in Australia measured around 6800 tonne-kilometres per person in 1999, compared with 7200 for the United States, 4200 for Germany, 3000 for France and 2700 for the United Kingdom.

## National road transport reform

Under the federal system of government in Australia, each State and Territory is responsible for road transport regulation in its jurisdiction. This has led to diverse regulations for driver and vehicle operations and standards, weights and dimensions. Lack of a consistent national approach to road transport regulation can cause confusion and compromise safety; it allows users to take advantage of any inconsistencies, differences or lack of communication between systems. It also increases compliance costs for interstate road transport operators.

Early attempts to overcome interstate disparities in road transport regulation were largely unsuccessful. However, in the early 1990s all governments agreed to measures to address the differences in regulation. Governments agreed on the Heavy Vehicles Agreement and the Light Vehicles Agreement in 1991 and 1992 respectively. The Heavy Vehicles Agreement provides for the development of uniform or consistent national regulatory arrangements for vehicles over 4.5 tonnes gross vehicle mass. The Light Vehicles Agreement extended the national regulatory approach to cover light vehicles.

The National Road Transport Commission (NRTC) was established in 1991 to develop the road transport reform programs. The Ministerial Council for Road

Transport (which was later absorbed into the Australian Transport Council) was established at the same time to oversee implementation of the reforms.

The NRTC's national reform package comprises six modules:

- registration charges for heavy vehicles;
- transport of dangerous goods;
- vehicle operations;
- heavy vehicle registration;
- driver licensing; and
- compliance and enforcement.

The various elements of these modules make up the 31 initiatives identified as the national road transport reforms.

## Role of the NCP

The NRTC road transport reform program pre-dates the NCP. The 1995 Agreement to Implement the National Competition Policy and Related Reforms included road transport reform across all stages of the NCP. For the first and second NCP tranches, the Agreement stated that NCP payments will, among other things, depend on 'the effective observance of road transport reforms'. The third NCP tranche requires jurisdictions to have 'fully implemented and continue to fully observe, all [Council of Australian Government (CoAG)] agreements with respect to ... road transport'. (CoAG 1995)

The NCP incorporates road transport reform without details of the specific reform obligations. The first NCP assessment of reform progress in 1997 was hampered by the lack of detail. Accordingly, the National Competition Council sought the agreement of the Commonwealth, the States and the Territories on a specific NCP program for the delivery of the road transport reforms. Thus, for the second NCP assessment, the Australian Transport Council considered and agreed on a detailed framework for the assessment of road reforms. CoAG subsequently endorsed this framework — comprising 19 reforms, criteria for assessing implementation and target dates — for the second tranche NCP assessment. Similarly, CoAG agreed on a framework of six specific reforms (including implementation criteria, the date each reform became available for implementation and target dates) for the 2001 NCP assessment.

Some reforms from the original road transport package have not yet been listed for NCP assessment. These include the speeding heavy vehicle policy and the higher mass limits reforms. This does not mean that some

jurisdictions have not implemented these reforms, in part or in whole, but rather that the Australian Transport Council did not determine that these matters should be assessed in 2001.

## The Council's approach

The Council considered jurisdictions' progress in observing the national road transport reform agenda in the first and second tranche NCP assessments. The Council tested each jurisdiction's observance by confirming that the jurisdiction had enacted legislation (or achieved significant progress towards this end) by the set dates and that it had established supporting regulations and administrative arrangements (or made significant progress towards this end) by the set dates. The Council took into account the progress reports from governments and any submissions or evidence received from interested parties.

For the 2001 NCP assessment, the Council has assessed jurisdictions' full implementation and continued observance of all CoAG road transport reforms. The criteria for assessing full implementation needed to go beyond those used for the first two assessments, because it was necessary to check that the reforms are achieving the intended outcomes, such as removing impediments or cost differentials for road users across interstate boundaries. Consistent compliance and enforcement practices are also an important part of full implementation so:

- enforcement agencies' efforts are not thwarted by drivers being able to shelter behind differences between jurisdictions; and
- road users operating legally in some jurisdictions do not find themselves noncompliant when operating in other jurisdictions due to different interpretations by enforcement officers.

The Council therefore considered implementation of the first and second tranche reforms as well as the reforms endorsed by CoAG for the 2001 assessment.

In undertaking the assessment, the Council noted comments in the jurisdictions' NCP annual reports, circulated an information paper and consulted with governments, road users, peak bodies and vehicle manufacturers about the implementation of reforms and reform outcomes. The Council relied on the experience of these parties to identify any interstate inconsistencies or competitive disadvantages that may be arising from inappropriate implementation of the national road transport reform program.

The Council considered timeliness (as measured against the assessment date for full implementation) to be important. However, the Council did not necessarily assess jurisdictions as failing to comply if a confirmed implementation program extended beyond the target date. In particular, where reforms were not fully implemented by 30 June 2001, the Council did

not assess a jurisdiction as failing to meet its reform obligations if progress was well advanced and full implementation was likely by December 2001.

The Council's assessment of full implementation was made with regard to the following benchmarks:

- whether legislation (including Acts, regulations and gazetted codes) has accounted for all aspects of the reform (without undertaking a clause-by-clause comparison of actual legislation with every aspect of the model national reform legislation);
- whether development of administrative rules and systems has been completed;
- the collection of data and exchange of data among jurisdictions, as necessary for systems to operate effectively;
- the achievement of the stated benefits, objectives and intent of reforms, such as the achievement of productivity gains, costs savings and uniformity;
- the elimination of, or reduction in, complaints about inconsistencies and lack of uniformity between jurisdictions which may have indicated the need for reform;
- the consistency of enforcement interpretations and practices across jurisdictions, based on uniform criteria for testing a road user's compliance and issuing sanctions; and
- the effectiveness of the reform in removing impediments to trade and competition throughout all jurisdictions.

The Council faced difficulties in interpreting information submitted by road users and the jurisdictions. Road users frequently indicated that they believe different jurisdictions have implemented reforms differently and therefore that the reforms are not nationally consistent. Many of these alleged inconsistencies could be explained by one of the following.

- Certain variations fall within the flexibility sometimes allowed in the national reform model.
- A jurisdiction had implemented the reform ahead of the target date or implemented an extra level of reform, resulting in differences among jurisdictions.
- A jurisdiction had implemented the next stage of development of the particular reform or an update of the standard involved. It is inevitable that there will be timing differences among jurisdictions in implementing reforms.

Because the Australian Transport Council did not agree to the Council having access to the NRTC, the Council's analysis necessarily relied on the

information provided by the parties consulted. As a result, the Council does not rule out the possibility that a more exhaustive analysis may reveal some aspects of the reforms that jurisdictions have set aside.

For the Council, the overriding consideration in this NCP assessment is the importance of each jurisdiction achieving a common regulatory platform consistent with the Australian Transport Council assessment frameworks. Accordingly, the Council considers that for each jurisdiction to be assessed as fully complying, it needs to have made its agreed contribution to achieving the common platform. Except where there are formal exemptions or accepted alternatives, the Council considers that every reform element and success criterion identified in the assessment frameworks must have been implemented for the reform to be assessed as complete.

## Remaining matters from first and second tranche assessments

In the first tranche NCP assessment, the Council considered that all jurisdictions had met their obligations. For the second tranche, the Ministerial Council for Road Transport identified 19 reforms for implementation. While overall progress was being made in meeting the assessment framework, some jurisdictions had not completed all reforms by June 1999. However, most were well advanced in their reforms, so the Council conducted supplementary assessments on the basis that the reforms were imminent. At the supplementary assessment for road transport reform in June 2000, the Council noted several outstanding matters. Each matter has since been progressed to a greater or lesser extent.

### Commonwealth

The Commonwealth will not complete its second tranche road transport reform program until it passes amendments to the *Interstate Road Transport Act 1985* consistent with its undertakings on reform of the Federal Interstate Registration Scheme. The Commonwealth had expected the Parliament to consider these amendments during the spring sitting in August 2000. However, it advised that, because of the emergence of other issues in the road reform process that it has needed to address, the legislation has been delayed again. The Commonwealth noted that the legislation is administratively unwieldy and that its heads of power are limited. The Commonwealth is therefore reviewing the Act so it can undertake reforms more readily and improve interaction with State and Territory law. For the sake of administrative efficiency, the Commonwealth has decided to implement the Federal Interstate Registration Scheme reforms at the same time as any broader amendments to the Act identified in the review. The Commonwealth expects the drafting instructions to be prepared and legislation to be introduced early in 2002. Until this occurs, the Commonwealth legislation is inconsistent with some minor aspects of the Heavy Vehicle Registration

Scheme reform, which may cause minor administrative impediments to nationwide uniformity for some heavy vehicle operators.

## Queensland

During the second tranche NCP assessment, the Queensland Treasurer advised the Council that Queensland would have its remaining second tranche obligation — fee-free interstate licence conversions — in place by 1 July 2000, once the State had made the necessary amendments and administrative changes to its Transport Registration and Integrated Licensing System. (Queensland had already removed the requirement that people converting interstate licences undergo a further driving test.) Queensland has since confirmed that fee-free interstate licence conversion is available.

## Western Australia

Bills to amend the *Road Traffic Act 1974* were delayed at the time of the second tranche NCP assessment, although reforms were being implemented by administrative arrangements until passed by the Parliament. Western Australia has since reported passing some of these Bills, notably the amendments introducing the national drivers licence classifications and photographic licences. However, the February 2001 election in Western Australia meant that other Bills associated with the National Heavy Vehicle Registration Scheme, the remainder of the National Drivers Licence Scheme, reforms of the Vehicle Operations and Heavy Vehicle Standards, and the One Driver One Licence reform need to be re-introduced in 2001. In the meantime, reforms of Vehicle Operations and Heavy Vehicle Standards are being implemented administratively.

## Northern Territory

At the time of the second tranche NCP assessment, the Northern Territory still had to complete one reform — namely, the introduction of a general demerits points system for licensed drivers. The Northern Territory had decided to implement a partial demerits points scheme for drivers of large commercial vehicles, but not until February 2002. The Council considered that this did not comply with the Territory's second tranche road transport reform obligations. As a result the Treasurer suspended 5 per cent of the Northern Territory's NCP payments pending the Territory gaining a CoAG/Transport Ministers forum exemption for this reform or implementing a full demerits points scheme.

On 25 May 2001 the Australian Transport Council granted the Northern Territory an exemption from applying a full demerits points scheme. The exemption means there is no breach of the Territory's second tranche

obligations. The Council has recommended to the Federal Treasurer that he reimburse the suspended NCP payments to the Northern Territory.

## 2001 assessment

### Full implementation of first and second tranche commitments

#### Full implementation of first tranche commitments

All jurisdictions implemented uniform heavy vehicle registration charges (considered in the first tranche NCP assessment) and the updated charges in 2000 as intended.

#### Full implementation of second tranche commitments

All but one of the 19 second tranche reforms (see box 9.1) had been available<sup>1</sup> longer than one year (in some cases for several years) before the second tranche reporting date of 30 June 1999. Only reform 18 had a later target implementation date (August 1999). Accordingly, the Council considered it reasonable to expect governments to have fully implemented all 19 reforms by 30 June 2001, including fully operative administrative and enforcement systems.

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<sup>1</sup> 'Available' refers to reform progression by the NRTC to the point where the jurisdictions agreed on: draft or model legislation; target dates for implementation; and the criteria for assessing implementation.

**Box 9.1: Second tranche road transport assessment framework**

**Reform 1:** A national package (legislation/regulations/code) for the carriage of dangerous goods by road

**Reform 2:** As far as practical, uniform or consistent national procedures and requirements for the registration of heavy vehicles

**Reform 3:** Uniform national requirements for key driver licensing transactions, including issue, renewal, suspension and cancellation (excluding learner and novice drivers)

**Reform 4:** Common Mass and Loading Regulations (which impose mass limits for vehicles and combinations) and Oversize and Overmass Regulations and Restricted Access Vehicles Regulations (which cover the operating requirements for larger vehicles)

**Reform 5:** Uniform in-service heavy vehicle standards

**Reform 6:** Nationally consistent legislative and administrative arrangements for managing truck driver fatigue (with subsequent regulations to combine truck and bus driving hours)

**Reform 7:** Nationally consistent regulation for managing fatigue among drivers of larger commercially operated buses (with subsequent regulations to combine truck and bus driving hours) (also reform 14)

**Reform 8:** National mass and dimension limits for heavy vehicles

**Reform 9:** Common and simplified licence categories and improved processes to eliminate the holding of multiple licences by a single driver

**Reform 10:** Expansion of 'as-of-right' access for B-doubles and other approved large vehicles

**Reform 11:** National in-service pre-registration standards (for heavy vehicles)

**Reform 12:** Common roadworthiness standards through the adoption of roadworthiness standards and guidelines, together with mutual recognition and consistent enforcement

**Reform 13:** Enhanced safe carriage and restraint of loads through standard regulations and a practical guide for the securing of loads to apply throughout Australia

**Reform 14:** Adoption of national bus driving hours (subsequently included in the Combined Driving Hours Regulations with reforms 6 and 7)

**Reform 15:** Simplified cost-free interstate conversions of driver licences

**Reform 16:** Support by jurisdictions for the development of alternative compliance systems

**Reform 17:** Options for three-month and six-month registration to provide operational flexibility

**Reform 18:** Provision for employers to obtain limited information about an employee's driver licence status, with employee consent

**Reform 19:** Agreement to link State/Territory databases to enable automatic exchange of vehicle and driver information through the National Exchange of Vehicle and Driver Information System — Stage 1

The Council assessed full implementation of all 19 reforms for all jurisdictions except the Commonwealth, Western Australia, the Northern Territory and the ACT. The Commonwealth has seven assessable reforms. It has no legal or implementation role in 12 of the 19 reforms. Despite participating in the development of all reforms, it has legislative obligations only for heavy vehicles that are registered under the Federal Interstate Registration Scheme. The Federal Interstate Registration Scheme is an



optional alternative to State or Territory registration for heavy vehicles engaged solely in the transport of goods or passengers interstate. The States and Territories administer the Federal Interstate Registration Scheme on behalf of the Commonwealth. In the second tranche assessment, the Council accepted that 16 reforms are relevant to Western Australia, the ACT and the Northern Territory (NCC 1999b).

The new Combined Driving Hours Regulations, incorporating reforms 6, 7 and 14, became assessable in June 2001. The fact that the three reforms are now incorporated into the new driving hours reform does not mean that they are superseded for the purpose of this assessment. They are still relevant although there are now additional obligations. Similarly, the inclusion of the new Combined Vehicle Standards reform in the framework does not mean that reform 5 need not be assessed. On the contrary, credit can be given for the extent to which the Heavy Vehicle Standards have already been achieved.

CoAG required each jurisdiction's 'in principle' support for reforms 16 and 19 for the second tranche assessment. The 2001 assessment does not require further progress in implementing these reforms. Where a jurisdiction supported these reforms but has not progressed to full implementation (which may have been expected to follow), the Council has confined the assessment to the requirement of 'in principle' support. In taking this approach, the Council has adhered to the assessment criteria specified by CoAG, whether or not jurisdictions progressed the implementation of these reforms in the ensuing two years.

Table 9.1 summarises the assessment of each jurisdiction's progress according to the benchmarks described in the earlier discussion of the Council's approach, as well as broader contextual considerations. The table highlights exceptions such as shortcomings or impediments to full implementation that have been identified through consultation and acknowledged by jurisdictions.

At June 2001 only four jurisdictions indicated that they had fully implemented all assessable reforms. While other jurisdictions had implemented most of their assessable reforms on the ground, this implementation has not always been in accordance with all legal details as set out in the national reform model. The jurisdictions told the Council that they expected to have reached the following stages of their implementation programs by 30 June 2001.

- New South Wales — implementation of all 19 reforms on the ground.
- Victoria — implementation of all 19 reforms on the ground.
- Queensland — implementation of 18 of the 19 reforms on the ground, with reform 3 well advanced and due for full implementation (including the graduated suspension scheme) by December 2001.
- Western Australia — implementation of 13 of its 16 reforms on the ground, including reforms 4, 5 and 13 (largely implemented in practice). The remaining three reforms (2, 3 and 9) are already partly in operation

and are expected to be fully implemented by December 2001 following the passing of the amendment Bills and regulations by the Western Australian Parliament.

- South Australia — implementation of 18 of the 19 reforms on the ground. Reform 2 (Heavy Vehicle Registration Scheme) is virtually in effect. South Australia expects to pass the remaining parts of legislation by July 2001.
- Tasmania — implementation of all 19 reforms on the ground, excluding the mandatory use of log books for truck drivers (the Australian Transport Council agreed that this should not apply in Tasmania).
- ACT — implementation of all its 16 reforms on the ground. But on 29 March 2001, the Legislative Assembly voted to disallow regulations to fully implement reform 2. The ACT has not told the Council how it intends to implement this element of the reform program.
- Northern Territory — implementation of all its 16 reforms on the ground (following the agreement of the Australian Transport Council that the Northern Territory is a special case and does not need to implement a comprehensive drivers licence demerit points scheme).
- Commonwealth — implementation of six of its seven reforms on the ground. The outstanding reform is due early 2002 and will not have significant competition or economic implications.

**Table 9.1:** Implementation of NCP second tranche road transport reforms, by jurisdiction

<i>Reform</i>	<i>Commonwealth</i>	<i>New South Wales</i>	<i>Victoria</i>	<i>Queensland</i>	<i>Western Australia</i>	<i>South Australia</i>	<i>Tasmania</i>	<i>ACT</i>	<i>Northern Territory</i>
1 Dangerous goods	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented
2 Registration scheme	Incomplete: due early 2002	Fully implemented	Fully implemented	Fully implemented	Implemented in practice but amendment to be re-introduced to Parliament: due December 2001	Implemented July 2001 following computer system changes	Fully implemented	Fully implemented except for regulations to implement continuous registration	Implemented except for demerit points
3 Driver licensing	No legal or implementation role	Fully implemented	Fully implemented	Implemented except for graduated suspension scheme: due December 2001	Implemented except for mutual recognition amendment: due December 2001	Full implementation July 2001	Fully implemented	Fully implemented	Fully implemented
4 Vehicle operations	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Largely implemented: residual due 30 June 2001	Fully implemented	Fully implemented	Fully implemented	Fully implemented
5 Heavy vehicle standards	No legal or implementation role	Fully implemented	Fully implemented	Fully implemented	Largely implemented: residual due 30 June 2001	Fully implemented	Fully implemented	Fully implemented	Fully implemented

*(continued)*

Table 9.1 continued

<i>Reform</i>	<i>Commonwealth</i>	<i>New South Wales</i>	<i>Victoria</i>	<i>Queensland</i>	<i>Western Australia</i>	<i>South Australia</i>	<i>Tasmania</i>	<i>ACT</i>	<i>Northern Territory</i>
6 Truck driving hours	No legal or implementation role	Fully implemented	Fully implemented	Implemented with variation for log book use over 200 kilometres not 100 kilometres	Exempt — uses comparable code	Fully implemented	Implemented with variation	'Not applicable' claim	Exempt — uses comparable code
7 Bus driving hours	No legal or implementation role	Fully implemented	Fully implemented	Implemented with variation for log book use over 200 kilometres not 100 kilometres	Exempt — uses comparable code	Fully implemented	Implemented with variation	'Not applicable' claim	Exempt — uses comparable code
8 Common mass and load rules	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented
9 One driver/one licence	No legal or implementation role	Fully implemented	Fully implemented	Fully implemented	Implemented in practice but amendment to be passed by Parliament: due December 2001	Fully implemented	Fully implemented	Fully implemented	Fully implemented
10 Improved network access	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented
11 Common pre-registration standards	No legal or implementation role	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented

*(continued)*

Table 9.1 continued

<i>Reform</i>	<i>Commonwealth</i>	<i>New South Wales</i>	<i>Victoria</i>	<i>Queensland</i>	<i>Western Australia</i>	<i>South Australia</i>	<i>Tasmania</i>	<i>ACT</i>	<i>Northern Territory</i>
12 Common roadworthiness standards	No legal or implementation role	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented
13 Safe carriage and restraint of loads	No legal or implementation role	Fully implemented	Fully implemented	Fully implemented	Implemented in practice but amendment regulation to be passed by Parliament: due 30 June 2001	Fully implemented	Fully implemented	Fully implemented	Fully implemented
14 National bus driving hours	No legal or implementation role	Fully implemented	Fully implemented	Implemented with variation for log book use over 200 kilometres not 100 kilometres	Exempt Uses comparable code	Fully implemented	Implemented with variation	'Not applicable' claim	Exempt — uses comparable code
15 Interstate conversions of driver licences	No legal or implementation role	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented
16 Alternative compliance	Support role completed	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented
17 Short term registration	Fully implemented in Federal Interstate Registration Scheme	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented

*(continued)*

Table 9.1 continued

<i>Reform</i>	<i>Commonwealth</i>	<i>New South Wales</i>	<i>Victoria</i>	<i>Queensland</i>	<i>Western Australia</i>	<i>South Australia</i>	<i>Tasmania</i>	<i>ACT</i>	<i>Northern Territory</i>
18 Driver offences/ licence status	No legal or implementation role	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented
19 National exchange of vehicle and driver information system — stage 1	No legal or implementation role	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented

The evidence available to the Council indicates that nearly all of the reforms in the second tranche NCP framework are fully implemented on the ground. Of the 150 reforms across all jurisdictions, 144 (96 per cent) have been satisfactorily implemented by the due date, given that four measures are on schedule for completion by 30 June 2001 and taking into account the formalised and practical exemptions from the reform program. The entire program will be implemented by early in 2002, assuming that the ACT resolves its recent reversal of the implementation of reform 2. The second tranche reforms still to be fully implemented and the expected dates of implementation are listed in table 9.2.

Despite implementation of the second tranche NCP program being almost complete, road users perceive shortcomings. The Council investigated all matters raised by road users, finding that the perceived noncompliance generally related to elements of reforms that are not part of the assessment framework. For example, while not part of the heavy vehicle registration charges reform, charges for stamp duty and compulsory third party insurance, which nonetheless form part of the registration and registration renewal processes, are not standardised across jurisdictions. In addition, the Federal Interstate Registration Scheme involves no stamp duty. The Council received anecdotal evidence of prime mover and trailer owners switching registration between jurisdictions to take advantage of differentials in stamp duty and compulsory third-party insurance charges. This behaviour may undermine the principle of achieving uniform competitiveness nationwide through standard registration charges.

The large number of industry claims of inconsistencies and shortcomings is due in part to the fact that the 2001 assessment framework does not include all elements of all of the original 31 reforms. For each area of reform included in the assessment frameworks to date, the national model endorsed by CoAG for assessment under the NCP does not necessarily comprise all initiatives needed for comprehensive national consistency. Many of the CoAG-approved assessable reforms are only part of the full reform needed. In addition, CoAG has not approved some reforms for assessment, despite these reforms having been developed by the NRTC and having been available for several years. The most significant is the mass limits review reform, which accounts for some 75 per cent of the economic benefits of the original 31 road transport reforms.

**Table 9.2:** Incomplete or delayed second tranche reforms, by jurisdiction, at 30 June 2001

<i>Jurisdiction</i>	<i>Reform</i>	<i>Likely date</i>	<i>Action required to complete reform</i>
Queensland	3 Driver licensing	December 2001	System changes to be completed to incorporate the national graduated suspension scheme for demerit points.
Western Australia	2 Registration scheme	December 2001	Amendment to be re-introduced to Parliament. Amendment had not been passed when Parliament was prorogued before the 2001 Western Australia State election.
	3 Driver licensing	December 2001	Additional amendments to the Act and Regulations to be passed, for the element pertaining to mutual recognition of licences and offences.
	4 Vehicle operations	June 2001	Some amendments being drafted but others first require amended legislation to provide regulation-making powers. Amended Act and Regulations then need to be promulgated.
	5 In-service standards	June 2001	Some amendments being drafted but others first require amended legislation to provide regulation-making powers. Amended Act and Regulations then need to be promulgated.
	9 One driver/one licence	December 2001	Additional amendment to the Act and Regulations to be passed for this element.
	13 Safe carriage and restraint of load	June 2001	Needs to have additional amendments to the Act and Regulations passed, although occurring in practice through administrative process.
South Australia	2 Registration scheme	July 2001	Systems completed. Parliament passed the remaining regulations on 16 July 2001.
	3 Driver licensing	June 2001	Systems completed. Parliament passed the remaining regulations on 16 July 2001.
ACT	2 Registration scheme		Regulations implementing continuous registration rejected by Legislative Assembly.
Commonwealth	2 Registration scheme	early 2002	Legislation to be drafted and passed by Parliament.



### Assessment of full implementation of second tranche commitments

The Council is satisfied that four jurisdictions — New South Wales, Victoria, Tasmania and the Northern Territory — have fully implemented all second tranche NCP commitments on the ground at 30 June 2001. Given the available information, the Council accepts that all other jurisdictions have implemented the bulk of the second tranche program and will have implemented remaining reforms by late 2001 or, in the case of the Commonwealth, by early 2002. The only exception is the full implementation of reform 2 by the ACT. The Council acknowledges that the reversal by the ACT of one element of this reform occurred only in late March 2001 and was contrary to the ACT Government's policy. The Council will seek advice from the ACT on action in train to address this matter.

### Full implementation of 2001 assessment commitments

Table 9.3 summarises the 2001 NCP assessment framework. Target implementation dates vary by jurisdiction but were mostly in 2000. The latest target implementation date is July 2001 for reform 4 for South Australia.

**Table 9.3:** NCP 2001 road transport reform assessment framework

<i>Reform</i>	<i>Purpose/outcomes</i>	<i>Key elements/success criteria</i>
1 Combined vehicle standards	<p>Provide uniform in-service design and construction standards for light and heavy vehicles. The aim is to promote the safe and efficient use of vehicles and ensure they harmonise with the environment.</p> <p>The standards will take into account issues raised by the National Environment Protection Council, amendments to the Heavy Vehicle Standards and changes in format and style to reflect the legislative drafting practices.</p>	<p>Adoption of national standards/rules into local regulations and administrative frameworks. Key elements include:</p> <ul style="list-style-type: none"> <li>• increased consistency in vehicle dimensions;</li> <li>• common basic vehicle standards to be maintained in use, including a requirement that relevant Australian Design Rules be retained in-service;</li> <li>• increased consistency in standards for vehicles under personal import provisions;</li> <li>• uniform smoke and noise emission standards;</li> <li>• a national speed rating of 180km/hr for tyres;</li> <li>• national standards for historical vehicles; and</li> <li>• automatic approval of left-hand drive vehicles over 30 years old</li> </ul> <p>(Note: Some rules allow for local law to override national rule.)</p>
2 Australian road rules	<p>Provide for national road rules to be obeyed by all road users including drivers and passengers, pedestrians, and riders of motorcycles and bicycles, and people in charge of animals. The aim is to ensure the safe and efficient use of the roads and cover standards of conduct, speed limits, signs, road markings, safety equipment and parking.</p>	<p>Adoption of Australian road rules into local regulations and administrative frameworks. Key elements include:</p> <ul style="list-style-type: none"> <li>• adoption of rules and amendment packages by agreed date (1 December 1999); and</li> <li>• amendment of Australian road rules (and local equivalent) through a process endorsed by the Australian Transport Council.</li> </ul> <p>(Note: Some rules allow for local law to override national rule.)</p>

*(continued)*

Table 9.3 continued

<i>Reform</i>	<i>Purpose/outcomes</i>	<i>Key elements/success criteria</i>
3 Combined bus and truck driving hours	<p>Provide a nationally consistent basis for managing fatigue among drivers of trucks above 12 tonnes gross and the larger commercially operated buses. Truck drivers operating under systems that manage fatigue may be exempted from some regulations.</p> <p>This package involves a conventional Regulated Hours Regime, a Transitional Fatigue Management Scheme and provision for an optional Fatigue Management Regime, subject to successful completion of a pilot program being conducted by Queensland Transport and the Australian Trucking Association.</p>	<p>Adoption of driving hours package into local regulations and administrative frameworks. Key elements include:</p> <ul style="list-style-type: none"> <li>• application to trucks over 12 tonnes gross;</li> <li>• application to buses with seating capacity greater than 12 including the driver;</li> <li>• introduction of Transitional Fatigue Management Scheme, but available only to truck drivers;</li> <li>• introduction of standard driving hours for regulated regime. This includes 14 hours work (including a maximum 12 hours driving in any 24 hours) maximum continuous driving periods and weekly limit of 72 hours with an option of a four-week cycle for bus drivers;</li> <li>• Provisions for the incorporation of a chain of responsibility (extended offences);</li> <li>• introduction of national driver logbook and requirement that it be used for trips outside 100 kilometres radius from base;</li> <li>• provision for employers to keep records for drivers working exclusively within the local area (100 kilometres from base); and</li> <li>• provision for two-up driving hours, allowing drivers to travel on the vehicle and share the driving.</li> </ul>

*(continued)*

Table 9.3 continued

<i>Reform</i>	<i>Purpose/outcomes</i>	<i>Key elements/success criteria</i>
4 Consistent on-road enforcement for roadworthiness	<p>Provide high-level guidelines made under the heavy vehicle registration reform for enforcement officers to assess vehicle defects (used in conjunction with the roadworthiness guidelines).</p> <p>Takes into account a vehicle's condition and its operating environment.</p> <p>Proposes three levels of sanctions:</p> <ul style="list-style-type: none"> <li>• formal written warning (not recorded and no defective vehicle label);</li> <li>• minor defect notice (a vehicle defect notice but no defective vehicle label); and</li> <li>• major defect notice (a vehicle defect notice and defective vehicle label)</li> </ul>	<p>Adoption of consistent on-road enforcement for roadworthiness, using approved guidelines into local regulations and administrative frameworks. Key elements include:</p> <ul style="list-style-type: none"> <li>• uniform classification of defects; and</li> <li>• uniform assessment of roadworthy defects, consistent with roadworthiness guidelines.</li> </ul> <p>Jurisdictions may also need to amend legislation to allow mutual recognition of defect clearance, which is an integral part of this reform.</p>
5 Second charges determination	Update charges for heavy vehicles (over 4.5 tonnes gross mass) using Australia's roads.	Adoption of second charges determination into local regulations and administrative frameworks. Refer to fee schedule in Commonwealth regulations.
6 Axle mass increases for ultra-low floor buses	Increase the driving (rear) axle mass limit for two-axle ultra-low-floor route buses (that are designed to be accessible for wheel chairs) by 1 tonne while maintaining an overall 16 tonnes gross mass for such buses. The aim of the 1 tonne increase is to enable passenger numbers to be maintained when equipment is shifted to the rear of the vehicle to comply with accessibility requirements for passengers with disabilities.	Amendment to local legislation or introduction of permits or notices to allow a 1 tonne increase in the allowable mass for the driving axle of low-floor two-axle buses that are designed to be accessible by wheelchairs.

The Council considers that the target dates set by CoAG allow adequate implementation time between the reform becoming available and the legislation being passed to put regulations, rules, administrative systems and enforcement arrangements in place. The Council believes that, with one exception, it is therefore reasonable to expect all 2001 assessment framework commitments to be fully implemented with fully operative administrative and enforcement systems in place by 30 June 2001. The exception is reform 4 in South Australia, which is due on 31 July 2001.

Table 9.4 summarises the assessment of each jurisdiction's progress in implementing the reforms according to the Council's benchmarks. It highlights shortcomings or impediments to full implementation as reported by jurisdictions and confirmed by consultation. Only two jurisdictions reported full implementation of all six reforms at June 2001. All other jurisdictions have implemented most of their assessable reforms on the ground. All but one jurisdiction expected to have fully implemented their reforms by December 2001. The jurisdictions advised that they expected to have reached the following stages of their implementation programs by 30 June 2001.

- New South Wales — implementation of five of the six reforms on the ground. While New South Wales implemented the Australian road rules (reform 2) as far as possible, the physical removal of 'No Standing' signs was always expected to take several years and is progressing satisfactorily. The Council considers reform 3 fully implemented because before the reform became available, New South Wales had advised the Australian Transport Council and National Road Transport Commission that it had difficulties arising from the safety and industrial implications of one element (extending bus driving hours from 12 hours to 14 hours maximum), given the State's current driving environment. The other jurisdictions and CoAG acknowledged this limitation to full implementation even though New South Wales did not seek an exemption.
- Victoria — implementation of five of the six reforms on the ground. While Victoria implemented the Australian road rules as far as possible, the physical re-painting of continuous white lines on roads was always expected to take up to nine years and is progressing satisfactorily.
- Queensland — implementation of four of the six reforms on the ground, with the remaining minor element of reform 3 expected to be implemented by December 2001 and reform 6 to be implemented by November 2001.
- Western Australia — implementation of four of its five assessable reforms on the ground, with the remaining two minor elements of the Combined Vehicle Standards (reform 1) still to be considered by the Western Australian Government. These elements involve mudguard spray suppression and 90 kilometres per hour speed limiters.
- South Australia — implementation of five of the six reforms on the ground. South Australia expected to have implemented the remaining reform in full by July 2001, within the target date set by CoAG.

- Tasmania — implementation of four of the six reforms on the ground, with the remaining two (reforms 1 and 6) expected to be fully implemented by July 2001 and December 2001 respectively.
- ACT — implementation of all of its five assessable reforms on the ground.
- Northern Territory — implementation of four of its five assessable reforms. The Northern Territory expected to have implemented the remaining reform in full by July 2001.
- The Commonwealth — implementation of its single reform on the ground.

**Table 9.4:** Implementation of 2001 NCP assessment road transport reforms, by jurisdiction

<i>Reform</i>	<i>New South Wales</i>	<i>Victoria</i>	<i>Queensland</i>	<i>Western Australia</i>	<i>South Australia</i>	<i>Tasmania</i>	<i>ACT</i>	<i>Northern Territory</i>	<i>Commonwealth</i>
1 Combined vehicle standards	Fully implemented	Fully implemented	Fully implemented	Largely implemented but only for the majority of agreed standards	Fully implemented	Largely implemented with two minor elements due by mid-July 2001	Fully implemented	Implemented but regulations being finalised: due to go to Executive Council in July 2001	No legal or implementation role
2 Australian road rules	Implemented except for removal of 'No Standing' signs, which is being undertaken progressively	Implemented except for crossing of single continuous white lines	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	No legal or implementation role
3 Combined bus and truck driving hours	Implemented except for extended driving hours for bus drivers	Fully implemented	Implemented except for graduated suspension scheme: due December 2001	Exempt — uses comparable code.	Fully implemented	Fully implemented (exempt from logbook)	—	Exempt — uses comparable code. Has a Transitional Fatigue Management Scheme.	No legal or implementation role

*(continued)*

Table 9.4 continued

<i>Reform</i>	<i>New South Wales</i>	<i>Victoria</i>	<i>Queensland</i>	<i>Western Australia</i>	<i>South Australia</i>	<i>Tasmania</i>	<i>ACT</i>	<i>Northern Territory</i>	<i>Commonwealth</i>
4 Consistent on-road enforcement for roadworthiness	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Implemented but Parliament to pass legislation: due in July 2001	Fully implemented	Fully implemented	Fully implemented	No legal or implementation role
5 Second charges determination	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented	Fully implemented
6 Axle mass increases for ultra-low floor buses	Fully implemented	Fully implemented	Due November 2001	Fully implemented	Regulations to be promulgated: due June 2001	Fully implemented	Fully implemented	Fully implemented	No legal or implementation role



The evidence available to the Council indicates that most of the 2001 NCP assessment framework endorsed by CoAG is in place at 30 June 2001. The Council is satisfied that only a small number of key reform elements are not yet fully implemented on the ground for this assessment. (Table 9.5 provides a summary of the delayed or incomplete reforms.) It is satisfied, taking into account the formalised and practical exemptions from the reform program, that 37 of the 46 reforms (over 80 per cent) are implemented as required at 30 June 2001. Given the available information, the Council expects that full implementation will occur by the end of 2001.

Despite the reported progress with implementation of the six reforms, there is a perception in industry of some shortcomings. For example, road users identified some imperfections in the Australian road rules (such as maximum speed limit differences among the jurisdictions, including with the implementation and signage of new 50 km/hr limits) and some inconsistent on-road enforcement for roadworthiness due to changing enforcement resources and differences between police and road agency officers' approaches.

The Council investigated the matters raised by road users, finding that generally the perceived shortcomings were either not part of the reforms for this assessment or that some further implementation refinement of some reform elements (such as further enforcement training) is needed.

#### Assessment of compliance

The Council's assessment of road transport reform performance found that only the Commonwealth and the ACT completed the reforms specified in the 2001 assessment framework on time. All other jurisdictions implemented most of their programs and, according to the jurisdictions, expected to have the remaining reforms in place by 31 December 2001, except that Western Australia is still to make a commitment to all aspects of the combined vehicle standards (reform 1). While Western Australia has not said it will not implement this reform, neither has it agreed to act upon it. The Council is looking for confirmation of a way to progress the outstanding elements of this reform.

Thus, while some jurisdictions may be technically in breach of their road transport reform obligations, the Council considers that jurisdictions have established processes for ensuring the remaining reform elements will be in place soon after the target dates set by CoAG. Accordingly, the Council assesses all jurisdictions to have met the 2001 NCP assessment obligations.

**Table 9.5:** Incomplete or delayed 2001 NCP assessment reforms, by jurisdiction, at 30 June 2001

<i>Jurisdiction</i>	<i>Reform</i>	<i>Likely date</i>	<i>Action required to complete reform</i>
New South Wales	2 Australian road rules	Several years	Replacement of 'No Standing' signs to be completed.
	3 Combined bus and truck driving hours	–	New South Wales noted that it will not be increasing bus driving hours to match truck driving hours.
Victoria	2 Australian road rules	Several years	Completion of repainting continuous white lines on roads
Queensland	6 Axle mass increases for ultra-low floor buses	November 2001	
Western Australia	1 Combined vehicle standards	Not known	Mudguard spray suppression and 90 kilometres per hour speed limiters still to be considered by the Government. No certain commitment or implementation date for these elements.
South Australia	4 Consistent on-road enforcement for roadworthiness	July 2001	Parliament passed legislation on 16 July 2001.
	6 Axle mass increases for ultra-low floor buses	June 2001	Regulations to be promulgated.
Tasmania	1 Combined vehicle standards	July 2001	
	6 Axle mass increases for ultra-low floor buses	December 2001	The mass increase for ultra-low floor buses being allowed by permit until the Vehicle Operations Regulations are amended.
Northern Territory	1 Combined vehicle standards	July 2001	Executive Council to pass regulations.

# Obligations under the Competition Principles Agreement (CPA)

## Tow truck legislation

### Legislative restrictions on competition

The tow truck industry is not specifically covered by the national road transport reform program, although some aspects of this program affect tow truck operators. Most jurisdictions have legislation governing the operations of tow truck owners. Accordingly, most States and Territories scheduled this legislation for NCP reviews.

Most frequently the restrictions under tow truck legislation relate to ensuring the safe and proper running of towing activities, procedures for towing, and licensing. Jurisdictions vary in the degree to which they regulate conduct and ration licences. Central allocation of towing jobs is also a feature of some legislation. In addition, some jurisdictions have varying regulation across localities. Some jurisdictions have price-setting powers over some towing activities.

Restrictions have also been identified that affect operators towing between jurisdictions. These can arise from prohibitions in the legislation, including the failure to recognise licences from another jurisdiction, or as a result of unintended effects of other registration or licensing provisions.

### Regulating in the public interest

Consistency in legislation is an important question, particularly for tow truck operators whose businesses are located close to State borders. Lack of a consistent legislative framework, or failure to recognise licences issued in another State, inhibits the ability of operators to work across State borders.

More generally, tow truck legislation often restricts competition and therefore is subject to legislation review obligation under the NCP. Such restrictions relate to a range of matters. Often, both the vehicle and the operator need to be licensed. Some regimes also incorporate a central job allocation register and some regulate fees.

Many of these restrictions have arisen in response to concerns about probity, consumer protection and safety. In undertaking the examination of tow truck regulation, jurisdictions need to note the CPA principles and provide evidence

that the benefits of the regulation outweigh the costs. In addition, jurisdictions need to consider alternatives to regulation to achieve legislation objectives.

While regulations aimed at ensuring probity and offering consumer protection may be in the public interest, the costs of licensing and enforcement must also be considered. Tightly regulating the number of licences, restricting the structure of the industry and setting fees can impose considerable costs on both the regulator and the industry.

## Review and reform activity

Table 9.6 provides a summary of governments' review and reform activity relating to the tow truck industry.

**Table 9.6:** Review and reform of legislation regulating tow trucks

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Tow Truck Industry Act 1998</i>	Licensing, market conduct, operations	Review completed.	New legislation, but subject to review when the new job allocation scheme is established.	Council to assess progress in 2002.
Victoria	<i>Transport Act (Tow Truck) 1983</i> and <i>Transport (Tow Truck) Regulations 1994</i>	Market conduct, licensing, fee setting	Review completed, recommending: the removal of entry restrictions for the heavy vehicle towing market; the development of an industry code of practice; a more proactive role by insurers in educating their customers; the retention of the allocation scheme; and the introduction of a franchise scheme for the Melbourne metropolitan area.	Awaiting Government response.	Council to assess progress in 2002.
Queensland	<i>Tow Truck Act 1973</i> and <i>Tow Truck Regulation 1988</i>		Review completed, finding a public benefit justification for the consumer protection and industry regulation provisions in the Act.	Act amended in 1999.	Council to assess progress in 2002.
South Australia	<i>Motor Vehicles Act 1959</i>	Market conduct	Review underway.		Council to assess progress in 2002.
Northern Territory	<i>Consumer Affairs and Fair Trading Act</i> (part 13)	Code of practice	Review completed in October 2000, recommending retention of the code of practice and formalisation in the regulations of the right for all consumers to be offered a tow of their choice.	The Government approved the recommendations in November 2000.	Meets CPA obligations (June 2001) for tow trucks.

## Dangerous goods legislation

Dangerous goods legislation covers a wide range of activities and goods. The laws usually relate to explosives, fireworks, chemicals and other high-risk substances including flammable, carcinogenic and radioactive materials.

Dangerous goods regulation relating to the road transport of such goods was reformed as part of the National Road Transport Reform Program. Transport of dangerous goods was assessed as reform 1 in the second tranche NCP road transport assessment framework (see table 9.1).

Governments also have legislation relating to other aspects of dangerous goods, such as manufacture, storage and use, as well as transport and handling by modes other than road. This legislation often contains restrictions on competition and, for this reason, is included in the governments' legislation review programs.

## Legislative restrictions on competition

Competition restrictions arising from dangerous goods legislation vary. The National Road Transport Reform Program led to some legislated restrictions being replaced by a code of conduct. Other restrictions are not covered by the road reform code of conduct — these include licensing of businesses and operators of equipment such as shotfirers and gas fitters. The licences can be prescriptive, stipulating requirements for the manufacture, transport and handling of the goods. Some legislation stipulates conditions for displaying items such as fireworks.

CoAG initiated moves to harmonise regulation of safe handling of dangerous goods more than ten years ago. As part of this process, a national standard on handling dangerous goods was finalised in 2000. Some jurisdictions have enacted harmonised legislation based on a code of conduct.

## Regulating in the public interest

The principal objectives of legislation relating to the manufacture, handling, storage and use of dangerous goods are to maintain health and safety and to protect the environment. Reviews of the NCP implications of this legislation need to consider other ways of addressing the health and safety and environmental protection concerns. In particular, governments need to consider if there are alternatives that achieve the desired outcomes but are less costly or burdensome.

## Review and reform activity

Table 9.7 provides a summary of governments' review and reform activity relating to the regulation of dangerous goods.

**Table 9.7:** Review and reform of legislation regulating dangerous goods

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
New South Wales	<i>Dangerous Goods Act 1975</i>	Licensing of premises, vehicles and vessels, and the sale of dangerous goods; special licences required for import, manufacture, sale, supply and receipt of explosives. Does not apply to the transport of dangerous goods by road or rail.	Draft national standard, relating to the storage and handling of dangerous goods, released for public comment. The proposed Dangerous Goods (General) Regulation released for public comment. NCP review to commence after the current process is complete.		Council to assess progress in 2002.
Victoria	<i>Dangerous Goods Act 1985</i> (s15).	Licensing, register of facilities, prior approval of facilities	Review completed.	New regulations relating to explosives, storage and handling, and occupational health and safety measures at major hazard facilities.	Council to assess progress in 2002.
Western Australia	<i>Explosives and Dangerous Goods Act 1961</i>	Licensing, permits, authorisations and approvals	Review completed, finding that there are frequently more efficient and effective ways of achieving the objectives of the legislation. It recommended: aligning licensing requirements for manufacture, transportation and use with existing controls for other chemicals; shifting responsibility for safety and accreditation to industry; and having less onerous restrictions on sale, display and use of fireworks.	<i>Dangerous Goods (Transport) Act 1998</i> revised the classification of such goods and took into account transport-related matters. A Bill to enact the remaining recommendations is being considered by the Government.	Council to assess progress in 2002.

*(continued)*



Table 9.7 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
South Australia	<i>Dangerous Substances Act 1979</i>	General duty of care in keeping, handling, conveying, using or disposing of dangerous substances; licences to keep and convey dangerous substances	Review completed, finding that the benefits of restrictions outweigh the costs.		
Tasmania	<i>Dangerous Goods Act 1976</i>		Act repealed and replaced by new dangerous goods legislation.	The new legislation is based on the National Road Transport Commission's legislative model for transport of dangerous goods by road, which has been expanded to include the use, storage and handling of dangerous goods.	Meets CPA obligations (June 2001).
	<i>Dangerous Goods Act 1998</i>	Code of conduct	Replacement legislation, assessed under the gatekeeper requirements.	Restrictions such as licences replaced with code of conduct based on National Road Transport Reforms.	Meets CPA obligations (June 2001).
ACT	<i>Dangerous Goods Act 1984</i> — applies the New South Wales legislation to the ACT	Licensing of premises, vehicles and vessels, and the sale of dangerous goods; special licences for import, manufacture, sale, supply and receipt of explosives. Does not apply to the transport of dangerous goods by road or rail.	Reviewed in conjunction with the <i>Dangerous Goods Act 1984</i> which links application of the ACT legislation to the New South Wales Act.		Council to assess progress in 2002.

*(continued)*

Table 9.7 continued

<i>Jurisdiction</i>	<i>Legislation</i>	<i>Key restrictions</i>	<i>Review activity</i>	<i>Reform activity</i>	<i>Assessment</i>
Northern Territory	<i>Dangerous Goods Act and Regulations</i>	Requirements for the transport, storage and handling of dangerous goods; business licences to manufacture, store, convey, sell, import or possess prescribed dangerous goods (ss 15–21); operators' licences for drivers of dangerous goods vehicles (Regulation 56), shotfirers (Regulation 132), gas fitters (Regulation 172) and autogas fitters (Regulation 202)	Review completed.	Act repealed and new <i>Dangerous Goods Act</i> assented to 30 March 1998. Draft regulations being prepared. Restrictions in regulations will be subject to NCP review and analysis.	Council to assess progress in 2002.

## Specialist and Enthusiasts Vehicle Scheme

The Commonwealth has responsibility for legislation relating to uniform vehicle standards. The *Motor Vehicle Standards Act 1989* provides for these standards, which apply to matters of safety, emission control and anti-theft capabilities. The objectives of the Act are to achieve uniform standards to apply to road vehicles when they begin to be used in transport in Australia, with particular emphasis on vehicle safety, emissions, anti-theft and promoting energy savings.

### Legislative restrictions on competition

The Act required all vehicles entering the Australian market to meet certain safety, emission control and anti-theft standards. This requirement was not a restriction on competition because the standards applied to all vehicles entering the market. However, the administration of the scheme differentiated between 'full volume' imports and 'low volume' imports. The administration of the Full Volume Scheme did not impose any restrictions on competition. However, the Low Volume Scheme could be considered to be anticompetitive because: (1) it imposed restrictions on the number of vehicles any given manufacturer could supply to the market; (2) users of the scheme could gain concessions leading to lower levels of assurance that standards were met; and (3) Full Volume Scheme users could not avail themselves of the Low Volume Scheme.

Following a review of the Act the Commonwealth introduced the Enthusiast Vehicle Scheme (SEVS) to administer the importation arrangements for used vehicles. The SEVS restricts imports of used vehicles to those satisfying certain criteria. However, the concessional arrangements for low volume imports have been removed and the SEVS is available to full volume importers as well.

### Regulating in the public interest

The benefits of requiring vehicles to meet safety, emissions and anti-theft standards extend beyond the owner of the vehicle to the wider community. The standards ensure the safety of other road users, protect the environment and act as a criminal deterrent.

Under the NCP public interest test, the Commonwealth needs to show that the benefits of setting and enforcing these standards for imported used vehicles exceed the costs (including the costs of enforcement and compliance and the costs of restricting competition) and that the restriction is necessary to achieve safety, environmental and security objectives. If competition is restricted, then the NCP public benefit test requires that alternative ways of achieving the objectives of the legislation be investigated. The task force that

conducted the NCP review of the Motor Vehicle Standards Act did not recommend the SEVS and there is therefore no public benefit justification for the SEVS in that report. Because it chose to establish a scheme other than that recommended in the NCP review report, the Commonwealth will need to provide a public benefit argument in support of its decision to implement the SEVS. The Council will assess progress by the Commonwealth on this matter in the 2002 assessment.

## Competition Policy Reform (Queensland) Public Passenger Service Authorisation Regulation 2000

Queensland has made a regulation about public passenger transport which relies on s51(1) of the *Trade Practices Act 1974* (TPA). Under s51(1), conduct which is specifically authorised by a Commonwealth, State or Territory Act or regulation is excluded from the coverage of the Trade Practices Act.

Queensland identified the Competition Policy Reform (Queensland) Public Passenger Service Authorisation Regulation 2000 as relying on s51(1) of the Trade Practices Act. On 14 August 2000 Queensland notified the Australian Competition and Consumer Commission of this regulation, as required by the Conduct Code Agreement. Queensland noted that it intends to repeal this regulation and replace it with identical provisions in the *Transport Operations (Passenger Transport) Act 1994*.

The regulation authorises the operators of public passenger services to work together for the purpose of integrating transport services, fares and timetables. Queensland advised that the regulation covers only those agreements designed to facilitate the coordination of public transport services. One outcome of the regulation is to allow for an agreement between Queensland Rail and Airtrain (a private rail operator offering passenger rail services from Brisbane Airport to the city and Gold Coast). The agreement enables fares on Airtrain services to include a Queensland Rail component which is already subsidised by the Government. That is, it allows Queensland Rail to pay Airtrain part of the government subsidy it receives for providing the community service obligation.

Under clause 5(5) of the CPA governments must have evidence to show that new legislation that restricts competition provides a net public benefit to the community and that restricting competition is necessary to achieve the government's objectives. Queensland stated that a public benefit test showed the benefits of the regulation outweigh the costs. Queensland argued that integrated ticketing simplifies purchases and encourages increased use of public transport, and that this in turn reduces congestion, pollution and greenhouse gas emissions, and lessens the need for road construction.

With regard to the community service obligations, CoAG agreed that governments should be free to determine who should receive payments or

subsidies for these, and that they should be transparent, appropriately costed and directly funded by government. The subsidy provided by the Queensland Government to Queensland Rail to provide identified community service obligations meets the CoAG criteria (see chapters 3 and 10).