

NSW Government response to recommendations in the Staysafe Inquiry Report into Driver and Road User Distraction

Recommendation 1

The development of comprehensive and accurate crash data is vital for developing and implementing road safety initiatives, and the Committee recommends that Transport for NSW raises the necessity for a standard definition of distraction as an agenda item for consideration by the Council of Australian Governments Standing Council on Transport and Infrastructure. This definition should also incorporate a specific set of categories for distraction, to distinguish it from fatigue and inattention.

Position

Supported.

Proposed Action

Transport for NSW will explore this issue at the national level.

Transport for NSW is working with the NSW Police Force on road crash data enhancements, which includes collecting better quality data on distraction factors causing road crashes.

Transport for NSW and the NSW Police Force will, in partnership with other jurisdictions, seek to develop a better understanding of distraction, with the aim of providing clearer regulatory measures that target the driver distraction risk.

Transport for NSW, working together with the NSW Police Force, will develop a standard definition of distraction for consideration by the Australian Road Rules Maintenance Group (ARRMG). The ARRMG is managed by the National Transport for Commission and involves road and police authorities from across Australia. Any changes to the Australian Road Rules must be approved by the Standing Council on Transport and Infrastructure.

Recommendation 2

The Committee recommends that Transport for NSW, in collaboration with NSW Police, investigate legislative means to enable the collection of mobile phone data from vehicles at crash sites to determine their possible contribution to the crash outcome.

Position

Supported in-principle.

Proposed Action

The Ministry for Police and Emergency Services, NSW Police Force, Department of Attorney General and Justice and Transport for NSW will investigate this issue further. This may include:

- examining non-legislative options to make the process quicker and less costly to access phone records of drivers involved in crashes;
- considering the option of legislative amendments if existing powers are inadequate and administrative initiatives to streamline access to data prove ineffective for police crash investigations; and
- consideration of reforms to provide police more timely and increased access to information to be balanced against consideration of privacy issues.

Recommendation 3

The Committee recommends that Transport for NSW makes greater efforts to ensure the enforcement of appropriate standards for the location and installation of mobile electronic devices in vehicles.

Position

Supported.

Proposed Action

Transport for NSW has raised, and will continue to advocate at a national level for Commonwealth application of vehicle standards concerning the installation of in-vehicle devices by vehicle manufacturers in new vehicles.

When a clear standard has been developed, Transport for NSW will provide guidance to police on standards for installation and location of devices to make enforcement easier.

More details are contained below in response to Recommendation 4.

For after-market devices, non regulatory approaches will also be considered. Transport for NSW is planning to conduct research, to further investigate after-market mobile electronic devices and technologies to determine safe locations and installation. This research is complex as correct installation will vary based on vehicle design. Transport for NSW will work in partnership with the after-market industry to provide consumer advice, for example where to position devices to reduce distraction, not interfere with other vehicle safety features, and maintain driver's clear vision of the road.

Recommendation 4

The Committee further recommends that Transport for NSW, as part of the development of the NSW and National Road Safety strategies, supports amendments to Australian Design Rule 42/05 to clarify the status of a driver's aid to limit driver distraction from in-vehicle electronic devices.

Position

Supported.

Proposed Action

This is a Commonwealth issue that NSW will raise at the national level, as a performance-based definition of driver's aid will provide greater clarity for consumers and industry. In February 2012, Transport for NSW recommended that the Australian Motor Vehicle Certification Board (AMVCB) and the Technical Liaison Group (TLG) consider amending Australian Design Rule ADR 42/04 to include advice on what constitutes a 'driver's aid'.

Transport for NSW will continue to advocate for amendments to ADR 42/04 and to work at the national level with road transport authorities and manufacturers to encourage manufacturers to develop driver aid functions and also to regulate in-built technologies.

In addition to vehicle standards, Transport for NSW will work with other jurisdictions on the Australian Road Rules Maintenance Group to amend the Australian Road Rules to clarify the definition of 'driver's aids'.

Recommendation 5

Additionally, the Committee recommends that Transport for NSW consults vehicle manufacturers to ensure that they are compliant with current and proposed Australian Design Rules.

Position

Supported.

Proposed Action

This is addressed in response to recommendation 4 above.

Recommendation 6

The Committee recommends that Transport for NSW promotes improved testing of all new in vehicle electronic devices for their driver distraction impacts. Clarifying appropriate standards of design and operation will assist in preventing unsafe devices from being included in vehicles sold in Australia.

Position

Supported in part.

Proposed Action

Setting vehicle standards for new vehicles is a Commonwealth issue. NSW will continue to work with other jurisdictions to raise the issue of the impact of in-vehicle electronic devices on driver performance at the national level.

Transport for NSW will also continue to advocate for inclusion of in-built technologies in the Australasian New Car Assessment Program (ANCAP) Roadmap. The Roadmap establishes the requirements for each star rating for new vehicles into the future. Each year, more safety assist technologies and better results in additional minimum crashworthiness testing performance are required to achieve the star ratings, thereby encouraging ongoing vehicle safety improvements.

For after-market devices, the recommendation to test all new in-vehicle electronic devices may not be feasible. The implementation of this recommendation is made more difficult by the fact that some electronic devices used in vehicles by driver, are not specifically intended for in-vehicle use. However, Transport for NSW will explore partnerships with the aftermarket industry to assess the impact of these devices on driver performance, taking a risk-based approach.

For devices that are not specifically designed to entertain or assist drivers in vehicles, a black and white regulatory approach may be inappropriate. In this regard, Transport for NSW will implement non regulatory approaches by continuing to educate the public on the dangers of certain general behaviours in while driving.

Recommendation 7

The Committee recommends that Transport for NSW investigates the potential benefits of workload managers for reducing distraction impacts for drivers with a view to promoting their greater dissemination and inclusion in safety equipment for new vehicles.

Position

Supported.

Proposed Action

While some driver aids may provide safety benefits, the impact of multiple interactions both within the vehicle and outside the vehicle in the dynamic driving environment, also needs to be considered. Transport for NSW supports a risk-based approach such that a hierarchy of driver aids and other in-vehicle devices may be identified within the vehicle's system, and the potential impacts may be reduced as and when the driving task requires it.

Transport for NSW therefore supports further investigation of a driving workload manager system that attempts to determine if a driver is overloaded or distracted, and if so, alters the availability of telematics and the operation of warning systems. Workload managers continually assess the difficulty of driving and regulate the flow of information to drivers that could interfere with driving, such as automatically diverting an incoming phone call to an answering machine when a driver is turning at an intersection.

Transport for NSW will investigate the potential benefits of workload managers, including conducting a literature review of the technology and its potential benefits on road safety, as well as assessments of the systems by the Road Safety Technology section within the Centre for Road Safety.

If proved as an effective measure to reduce distraction risks, Transport for NSW will advocate for inclusion of workload managers in new vehicles at the Commonwealth level, through the ADRs, and other means such as incorporating in the ANCAP Roadmap.

Recommendation 8

The Committee supports the view of the National Road Safety Council that targeting at risk groups in the driving population is likely to be more effective in reducing crash risk and therefore recommends that the current prohibition on mobile phone use by P1 drivers be extended to cover P2 drivers.

Position

Supported.

Proposed action:

Transport for NSW will further investigate the evidence and consider policy options that address the distraction risks for P2 licence holders and young drivers and riders more generally.

Currently Learners and P1 licence holders are not permitted to use a mobile phone at all when driving. Learners and P1 licence holders are still developing their vehicle control and hazard perception skills and the use of mobile phones can distract the novice driver and/or rider from the driving task. Using a mobile phone legally, when in a mounting or without touching can reduce the physical effort to make or receive a call but can still pose a distraction to the driver.

Recommendation 9a

The Committee recommends that Transport for NSW urgently progresses its work with the NSW Police Force to develop an enhanced enforcement approach to mobile phone use while driving.

Position

Supported.

Proposed Action

Transport for NSW and the NSW Police Force will continue to work together to develop an enhanced enforcement approach to mobile phone use.

In addition, the Government proposes increasing the visibility of enforcement and making it easier to enforce mobile phone offences. Future legislative reform may be considered to allow photographic evidence from police operated cameras to be used for prosecution of mobile phone offences. The NSW Police Force will investigate various camera technologies that could be used to complement on-road enforcement offences of illegally using a mobile phone while driving.

Recommendation 9b

Consideration should be given to increasing the penalties applying to second and repeated offences for the use of hand-held mobile phones by vehicle drivers.

Position

Not supported.

Proposed Action

The offence data does not suggest that repeat offending is a major problem with regards to mobile phone offences. In the five years between 1 July 2007 and 30 June 2012, only about 10 per cent of mobile phone offences recorded, were for a second or subsequent mobile phone offence.

Further, the creation of higher penalties for second and subsequent offences for mobile phone use would be inconsistent with other road rules. Mobile phone offences are demerit point offences so drivers who commit repeat offences accumulate demerit points, face the potential loss of licence.

Increasing the risk of being caught for mobile offences would be more effective than increasing penalties. Further policy changes will be explored as part of the NSW Repeat Offender Strategy.

Recommendation 10

The Committee recommends that Transport for NSW expedites the creation of a separate offence category for the use of mobile devices for sending or receiving non-voice based communication while driving.

Position

Supported in-principle.

Proposed Action

Research has found that non-voice based communications such as texting pose a greater crash risk, there are practical difficulties to define and enforce a separate non-voice communication offence.

Transport for NSW together with NSW Police in consultation with the Department of Attorney General and Justice will continue to investigate together with other jurisdictions at the national level, the feasibility of introducing offences that are commensurate with the distraction risk of tasks. The feasibility of offences of this nature will depend on resolving issues of enforceability.

Transport for NSW representatives at the Australian Road Rules Maintenance Group meeting in June 2012 had proposed the creation of a separate non-voice based communication offence. The proposal was rejected because of concerns about practical enforceability. Feedback from interstate representatives was that it may be difficult for a police officer at the roadside to ascertain whether a driver using his or her phone, is texting or emailing or making a phone call.

A further issue that must be addressed on development of a separate offence is to ensure that the law is flexible enough to treat the use of similar functions on different devices equitably and be used to regulate emerging technologies. It should be noted that the offence of using mobile phones while driving was introduced into NSW in 1989. Since that time technology has changed dramatically, with the increasing popularity of multi-functional devices with internet connectivity.

Recommendation 11

The Committee recommends that Transport for NSW finalises, as a matter of urgency, its review of variable message signs in order to provide greater certainty for drivers and the outdoor media industry concerning the safe operation and locations of such signs.

Position

Supported.

Proposed Action

Transport for NSW and the Department of Planning and Infrastructure are currently finalising updates to the *Transport Corridor Outdoor Advertising and Signage Guidelines* which provides guidance for the application of State Environment Planning Policy No.64 – Advertising and Signage (SEPP 64). The updates to the guidelines have been developed in consultation with the outdoor advertising industry.

With respect to variable message signs, their use on the road reserve is regulated by Roads and Maritime Services (RMS) Technical Direction 2010/07 Use of Variable Message Signs (VMS) policy. To improve safety, Transport for NSW and RMS will include measures in the *Transport Corridor Outdoor Advertising and Signage Guidelines* to guide planning authorities, including local councils, about the use of VMS for advertising purposes on private property in the road corridor.

Recommendation 12

The Committee further recommends that Transport for NSW conducts research into the impact of digital billboard signage interacting with electronic devices within vehicles to determine safety risks associated with their increasing use.

Position

Supported.

Proposed Action

This is emerging technology which we understand has not been introduced in Australia to date. The use of this technology is not currently operating in NSW, and will be considered in the current review of the *Transport Corridor Outdoor Advertising and Signage Guidelines*. Transport for NSW will conduct ongoing monitoring of research in other jurisdictions, such as the USA and Europe, where interactive digital billboards operate.

Recommendation 13

The Committee recommends that the Department of Planning and Infrastructure and Transport for NSW strengthen the compliance regime for the use of on-premise digital signage to bring these into line with other signage regulated under State environmental planning instruments.

Position

Supported.

Proposed Action

As part of reforms to the NSW planning system, the Department of Planning and Infrastructure proposes to collapse all the State Environment Planning Policies including integrating and streamlining all signage requirements. In this process, Transport for NSW will work with the Department of Planning and Infrastructure to incorporate guidance for planning authorities when assessing development applications for advertising on private premises that are adjacent to a road to ensure greater consistency with advertisements in the road corridor.

Recommendation 14

The Committee also recommends that Transport for NSW commissions detailed research to determine the impact of advertising signage on crash rates at locations where road signs are displayed. In cases where signage is placed at high crash incidence sites, the suitability of these sites for roadside signage should be reviewed.

Position

Supported.

Proposed Action

There is currently little research evidence to accurately estimate the road safety impact of outdoor advertising. Transport for NSW will work towards better understanding these risks, including the potential to monitor individual sites that may cause an additional risk, but cautions that a number of years data may be required to identify specific road safety trends in relation to the general impact of outdoor advertising, particularly electronic advertising. Under the current Guidelines high crash incidence sites are taken into account in the assessment of the appropriateness for the installation of road corridor advertising. There is also provision within the *Roads Act 1993* for the removal of roadside advertising if Roads and Maritime Service determines it is a traffic hazard.

Recommendation 15

The Committee recommends that Transport for NSW reviews the current operation of the NSW taxi industry dispatch system, with a view to ensuring that the mounted units comply with standards to limit driver distraction by in vehicle electronic devices.

Position

Supported.

Proposed Action

Transport for NSW will undertake a review to ensure compliance with existing standards and develop guidance for the taxi industry.

Recommendation 16

As part of the review of the taxi dispatch system, the Committee also recommends that Transport for NSW examines the increasing use by passengers and some drivers of unauthorised dispatch systems and its potential to compromise safety.

Position

Supported.

Proposed Action

From a road safety perspective, the devices must be installed appropriately. This is addressed in the response to recommendation 15.

The use of unauthorised taxi dispatch systems and market competition for these devices and applications is not a road safety matter.

Recommendation 17

The Committee recommends that the Department of Education and the Centre for Road Safety revise and expand the NSW PDHPE school syllabus by including specific material on road safety distraction, covering all age groups, with a specific focus on young people in a variety of road user categories including pedestrians, passengers, wheels users or future drivers.

Position

Supported.

Proposed Action

NSW is the only state with road safety education as a mandatory part of the School Curriculum. There is a specific focus on distraction in the current PDHPE element of the school syllabus. The Board of Studies has proposed to include distraction in the new curriculum for Kindergarten to Year 12.

Recommendation 18

The Committee recommends that Transport for NSW, as part of its educational and campaign strategies, makes greater use of social media to promote messages focussing on distraction and its impacts on road safety. In particular, the Geared website should be more widely disseminated on social media platforms to better target its core audience of young people.

Position

Supported.

Proposed Action

The Centre for Road Safety is in the process of converting all their educational resources so they are available online. A new education resource for primary school children is currently being designed for school smart boards and online homework activities.

The new "Get Your Hand Off It" mobile phone distraction campaign has a strong social media focus.

Recommendation 19

The Committee recommends that Transport for NSW develops a campaign to alert drivers to the optimal use of mobile phones while driving in order to reduce the potential for driver distraction. Such a campaign should highlight the potential consequences of distraction related impaired driving, which may result in serious injury and fatality.

Position

Supported.

Proposed Action

In June 2013, the Government launched the “Get Your Hand Off It” campaign which uses traditional advertising and a YouTube video to highlight the excuses motorists make so they can hold their mobile phone while driving. The campaign will feature outdoor advertisements, including on buses and taxis, to reach at the most effective time those motorists who take these risks.

Recommendation 20

The Committee recommends that Transport for NSW, as part of its next road safety campaign directed at drivers and other road users, devises messages to highlight the role of self regulation as an important factor influencing distraction impact on crash risk.

Position

Supported.

Proposed Action

The new “Get Your Hand Off It” campaign incorporates messages about self regulation.

Recommendation 21

The Committee recommends that Transport for NSW commissions specific research into the impact of distraction on vulnerable road users, specifically examining age and gender related effects, with a view to devising appropriate interventions and countermeasures to minimise its impact on this group.

Position

Supported.

Proposed Action

Transport for NSW will include distraction research into the Centre for Road Safety's research agenda.

Naturalistic driving studies in Australia would greatly advance understanding of how drivers interact with electronic devices whilst driving, and identify what safety countermeasures would have the greatest potential.

In November 2012, the Australian Research Council (ARC) announced that it would fund the purchase and integration of all the equipment, infrastructure and facilities needed to run a 400-car naturalistic driving study (NDS) in NSW (Sydney and Wagga Wagga) and Victoria (Melbourne and Bendigo). In June 2013, the ARC announced that it would fund the ongoing research program. Purchase and integration of the equipment and facilities to support the NDS will commence in 2013, and the NDS is anticipated to start in 2014.

Transport for NSW is currently conducting a naturalistic driving pilot to test equipment to be used to record, transfer and store data on driver and road user behaviour in the large-scale naturalistic driving study. Transport for NSW proposes that distraction should be a priority for research. However, it will be a few years before the results from the naturalistic driving study will be known.