

## Public Statements on Compliance Activity and Enforcement Outcomes

### Purpose

Informing the public about the NHVR's law enforcement activities:

- promotes voluntary compliance with the Heavy Vehicle National Law (HVNL)
- ensures transparency, accountability, and public confidence in the NHVR
- educates duty holders and the community regarding safety hazards, risk and controls associated with the heavy vehicle industry.

This management standard defines the mandatory and minimum communication requirements to address the following objectives:

- The circumstances in which the NHVR will make a public statement relating to compliance activity
- The acceptable content of that statement.

This management standard is to be read in conjunction with the NHVR *External Communication Policy* and *Social Media Policy* and other documents noted in this document.

### Parent policy

This management standard further defines the business rules (controls, actions) outlined in the following policy:

[Compliance and Enforcement Policy](#)

### Scope

This management standard applies to the Board and all employees of the NHVR.

It applies to compliance activity under the HVNL, where a public statement could identify, or lead to the identification of, a person (individual or corporation).

It does not apply to:

- the reporting of statistical data; or
- any other publication that does not identify a person; or
- that could lead to the identification of a person, where reasonable steps are taken to avoid this outcome (for example, highly generalized statements about compliance action in corporate publications).

### Standards

It is mandatory for the NHVR Board and employees (as defined in the above Scope) to adhere to the following business rules and comply with their supporting standards.

#### 1 Public statement on compliance activity - General principles

##### Standards

- 1.1 The NHVR does not make public statements on the commencement or conduct of compliance activities unless it is in the public interest and lawful. This is because of the potential detrimental reputational effect that a public statement can have, or because it may impede the effectiveness of our compliance activities.

## Standards

- 1.2 The NHVR will take a range of factors into account when considering whether making a statement is in the public interest and outweighs the possible detrimental effect of a public statement and the contents of that statement. These factors include whether:
- (a) the public statement may have an unacceptable effect on the privacy and reputation of a person which outweighs the utility of the public statement.
  - (b) information is already in the public domain
  - (c) the NHVR has been publicly called upon to respond to an issue
  - (d) the statement is necessary to maintain public confidence that the NHVR is fulfilling its responsibility by investigating issues of public concern
  - (e) the statement is necessary for investigation purposes, for example to encourage witnesses to come forward
  - (f) making a statement could prevent unsafe/noncompliant activity or allay public concern
  - (g) there is a need to correct misinformation in the public domain
  - (h) there is a need to protect the reputation of a party not involved in an investigation
  - (i) the disclosure is not prohibited by Part 13.4 of the HVNL or any other law. For example, information associated with preventing or minimising the following would be an authorised disclosure:
    - (i) a risk of danger to the life of a person or
    - (ii) a risk of serious harm to the health of a person or
    - (iii) a risk to public safety.

## 2 Public statement on enforcement outcomes

### Standards

- 2.1 The NHVR will apply the factors set out in section 1 (Public statement on compliance activity - General principles) in deciding to make a public statement in relation to an administrative sanction.
- 2.2 The NHVR will not make a public statement in relation to an administrative sanction where the recipient has complied with the terms of the sanction unless there is an overriding public interest requirement or with their consent.
- 2.3 Where a public statement had been made advising the commencement or conduct of compliance activity, a further public statement should be made if the matter is concluded with no enforcement action.
- 2.4 The NHVR may make a public statement on the administrative resolution of compliance activity where voluntary corrective action has been undertaken.
- 2.5 The NHVR will issue a public statement when it has entered into an enforceable undertaking (EU). The public statement may contain the following:
  - (a) the background of the matter/activity as described in the EU
  - (b) where relevant, details on previous non-compliance relating to the entities involved or admissions made, as set out in the EU and the key features of the EU
  - (c) any other matters required under the HVNL to be published in respect of an EU.
- 2.6 The NHVR will also issue a public statement concerning the status of an EU (including its withdrawal or amendment) if it is in the public interest to do so.
- 2.7 The NHVR may, at its discretion, give advance notice of a public statement about an enforcement outcome to the parties concerned.

## 3 Public statement on legal proceedings

### Standards

- 3.1 The NHVR may issue a public statement in relation to legal proceedings for offences under the HVNL:
- (a) at the commencement of an action after the initiating documents have been filed and the parties to the proceedings have been notified and served
  - (b) after a decision or finding is made (usually after a penalty decision in the case of a plea of guilty or finding of guilt or not guilty) or if charges are withdrawn
  - (c) when there is a public interest.
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- 3.2 A statement made in relation to a legal matter before the proceedings are finalised ensures that it causes neither prejudice to the proceedings and/or any investigation involving other or related entities and may:
- (a) identify the parties to the action, including their names, trading names, location of residence/operation
  - (b) refer to the alleged breaches of the HVNL
  - (c) identify the potential maximum penalties for the alleged breaches
  - (d) say when the matter is in court and which court it is in
  - (e) advise on the status of any court proceedings (for instance, the outcome of an interlocutory application or the purpose of the next court hearing)
  - (f) advise that a party has not entered a plea, not required to enter a plea, or pleaded not guilty.
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- 3.3 Where a court has made a decision/finding in relation to a matter, the NHVR may:
- (a) identify the outcome of court proceedings, any findings of fact of the court, quote from the judgment or make a statement on information, which is in the public domain
  - (b) identify (subject to the principles in this document) third parties not the subject of the proceedings but who may have been otherwise materially involved in the matter
  - (c) make a statement on the NHVR's views about the matter and its relevance to the NHVR's objectives, as contained in the HVNL.
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- 3.4 Where the NHVR has made a public statement about a legal proceeding, and the matter is withdrawn or there is a finding of not guilty, the NHVR will ordinarily make a further statement to this effect in the same forum as the original public statement, except if:
- (a) such a publication would cause damage or detriment to the party or
  - (b) there is a request from the party that not further publication occur.

## Roles and responsibilities

The following roles are responsible for the management standards in this document and any other roles including the making of public statements authorised by the CEO.

Role	Responsibilities
CEO	Approving or making any public statement under this management standard.
Chief Operating Officer	Approving statements from the Director Southern Region.
Director Southern Region	Drafting statements in relation to the commencement, finalisation, and general management of compliance activity.
Executive Director Statutory Compliance	Approving statements from the Director Prosecutions, Manager Proactive Compliance or Director Investigations.
Director Investigations	Drafting statements in relation to the commencement, finalisation, and general management of the investigation of offences under the HVNL.

Role	Responsibilities
Director Prosecutions	Drafting statements in relation to the commencement, finalisation and general management of the prosecution of offences under the HVNL.
Media Manager	Ensuring public statements are drafted in compliance with the <i>External Communication Policy</i> .

## Definitions

The following terms are specific to this management standard.

Term	Definition
Administrative sanction	An Infringement Notice, Improvement Notice, or Prohibition Notice.
Compliance activity	The exercise of a power or function associated with investigating or monitoring compliance with the requirements of the HVNL.
Enforcement action	Issuing an administrative sanction or alleging the commission of offences to the relevant tribunal or court.
Enforcement outcome	The conclusion of a compliance activity by - <ul style="list-style-type: none"> <li>• issuing an administrative sanction under the HVNL</li> <li>• finalised legal proceedings</li> <li>• determining no further action under the HVNL is appropriate (e.g. a formal warning or acceptance of voluntary compliance improvements)</li> </ul>
Investigation	The exercise of powers in relation to the testing of allegations of noncompliance with the HVNL.
Public statement	A comment that may identify or lead to the identification of a person Excludes a publication for the purposes of s 726D of the HVNL. Section 726D regulates the publication of material following conviction on the NHVR's website.

## References

- *External Communication Policy*
- *Social Media Policy*
- Heavy Vehicle National Law
- *Information Privacy Act 2009 (Qld)*