

Monday, 24 March, 2014

CoR Review, National Transport Commission

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Via email: jwolter@ntc.gov.au

Chain of Responsibility in the Heavy Vehicle National Law: Response to Assessment of Options Paper

The following is a brief submission by the Bus Industry Confederation to the NTC review of Chain of Responsibility (CoR) regulations in the context of the Heavy Vehicle National Law (HVNL).

In broad terms the BIC supports an alignment of CoR with the HVNL as a means to simplifying compliance for bus operators and the strengthening of the laws to streamline compliance and enforcement.

We also seek to promote an internal consistency between the HVNL and Workplace Health and Safety laws (WH&S) so that compliance with the HVNL will in effect engender compliance with WH&S.

The BIC makes the following stipulations to the review:

- The law currently includes a duty for parties in the chain to prevent a driver driving while fatigued. This is a strong general deterrent and we would like to see this style of general duty extended to include speed. Intermediate and specific duties (e.g. schedulers must not schedule in a manner that would cause a driver to breach the drivers work and rest options) should also be prescribed wherever possible.
- In the interests of improving fairness for all parties the BIC recommends the removal of all current provisions which automatically 'deem' other parties in the chain guilty of the same offence committed by a driver. We believe this violates the onus of proof and presumption of innocence principles enshrined in Australian common and statutory law.
- We support measures being taken to ensure that all parties in the chain are proactively addressing their obligations. This is a fundamental change that means all chain parties can be held to account for their actions or omissions before an offence occurs.
- The BIC supports the extension of the CoR to include vehicle standards and maintenance.

- The BIC believes provision has to be made within CoR to account for privacy protection laws. By this we mean a lack of access to information about potential employees which is protected under privacy laws.

For example lack of access to a drivers' driving history, can lead to the employment of a driver with a history of high risk and illegal driving. In addition a lack of access to this information can result in a driver already within the employ of a bus operator committing driving offences without his employer being made aware of them.

There is no current protection for the employer under CoR if said driver commits a further offence or is involved in an incident. The BIC believes that some provision must be made to either give the employer access to information which is relevant to the safe passage of bus passengers (similar to a working with children check) or failing that protect the employer against hiring decisions made without full access to information due to privacy protection laws.

The BIC can be contact on 02 6247 5990 or via email appsm@bic.asn.au to discuss this submission further.

Yours sincerely



Michael Apps,
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