Submission to:

Legislate Reform,
Compliance and Enforcement, GPO Box R1290, Perth WA 6844

Road Traffic (Vehicles) Bill 2009

From: CBH GROUP
Gayfer House
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Dated:

Originally submitted 28 March 2008 (#645317) in relation to the Road Traffic (Vehicles) Bill 2007

Amended 23rd Dec 2009 (#645317) in relation to the Road Traffic (Vehicles) Bill 2009.

Emailed to: **cande@transport.wa.gov.au**.

A similar paper to this was originally submitted in March 2008 in relation to the Roads Traffic (Vehicles) Bill 2007 and evidence presented to Standing Committee of Uniform Legislation and Statutes Review.

As a result; noted in Supplementary Notice Paper No.251, Issue No.3; Thursday, 19 June 2008; Minister Simon O'Brien supported our submission and moved that: (2/30, page 35, after line 11, (6)):
"*Heavy Vehicles transporting grain from farms to Receival points during the months of October, November, December and January, with a mass exceeding the permitted mass by not more than 10% are not subject to subsection (3)*".

In addition, since June 2008, Minister Simon O'Brien has announced that Main Roads WA (MRWA) would oversee the former CBH Harvest Mass Management Scheme. The 2009/10 harvest; still underway is the first under MRWA's business rules.

CBH was the sole registered receiver of grain in the 2009/10 Scheme and have recently successfully passed a MRWA audit.

Introduction

The following are submissions presented for consideration by Co-operative Bulk Handling Limited (**CBH**) in response to the request for public comments on the Road Traffic (Vehicles) Bill 2009 **(the Bill).**

P art 4 Division 2 - Mass, dimension and loading offences and modification of mass or dimension requirements

Breach of Mass Requirement

Section 29 and 30 of the Road Traffic (Vehicles) Bill 2009 sets out the criteria for breach of mass requirements for both light and heavy vehicles. This section tables the "in excess mass" (%) for which penalties are allocated.

It is the view of CBH that the criteria for breach of mass requirement between 0-5% and 5-10% adversely affects the Grain Industry, rural communities, road safety, transport industry and the environment.

CBH's position is detailed below.

Executive Summary

CBH with the support of the West Australian Grain Industry and State Government has implemented a Harvest Mass Management Scheme **(HMMS)** for the past four harvests. The HMMS has proven to be effective in reducing the incidents of grain transport vehicles over loading. The scheme has been widely supported by growers and transporters because it allows for a level of flexibility whilst deterring participants from over loading. The scheme has demonstrated how the Grain Industry can act responsibly to self-regulate the issue of over loading.

The Grain Industry argues there is a need for flexibility to account for the difficulties of estimating tonnages whilst loading grain on-farm. The evidence of the difficulty in loading on farm has been presented to MRWA and The Minister for Planning and Infrastructure.

This submission aims to present economic, financial, road safety and social arguments that support a mass flexibility for the Grain Industry during harvest. These arguments have been formed by examining the impacts if zero flexibility is implemented as per the Bill's current model.

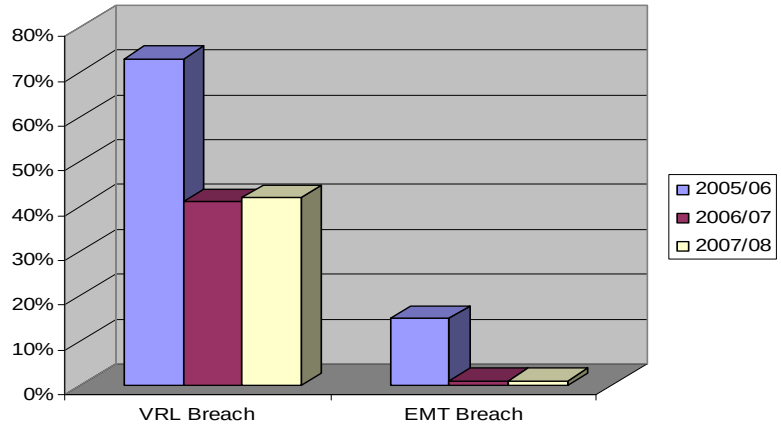
Current Situation in the West Australian Grain Industry

1. Four years ago, the HMMS was introduced for the 2006/07 harvest in preparation for the introduction of Chain of Responsibility and Enforcement model legislation.
2. HMMS has been effective in reducing incidences of severe overloading with most deliveries aiming for standard mass limits. (These statistics are provided later in the submission under the heading Harvest Overloading Statistics.)
3. HMMS provides a flexibility of up to 10% above the MRWA permitted total mass of a vehicle. Flexibility is only applied in cases where it is safe to do so i.e. the legal safe working limit of a vehicle is not exceeded (GCM or class 2/3 permit limit).
4. HMMS provides two overload remedies: (i) Grain Forfeiture Option (ii) Load Rejection Option.
5. In the winter of 2009 the WA Government agreed to the principles of the CBH HMMS for grain transport vehicles under the control of MRWA.
6. Participants of the HMMS now have five "overload strikes" for a truck per season; before losing any applicable tolerance. If they have accrued five strikes a truck can still continue to deliver, but at standard legal mass limits.

Key Grain Industry Issues with the Bill

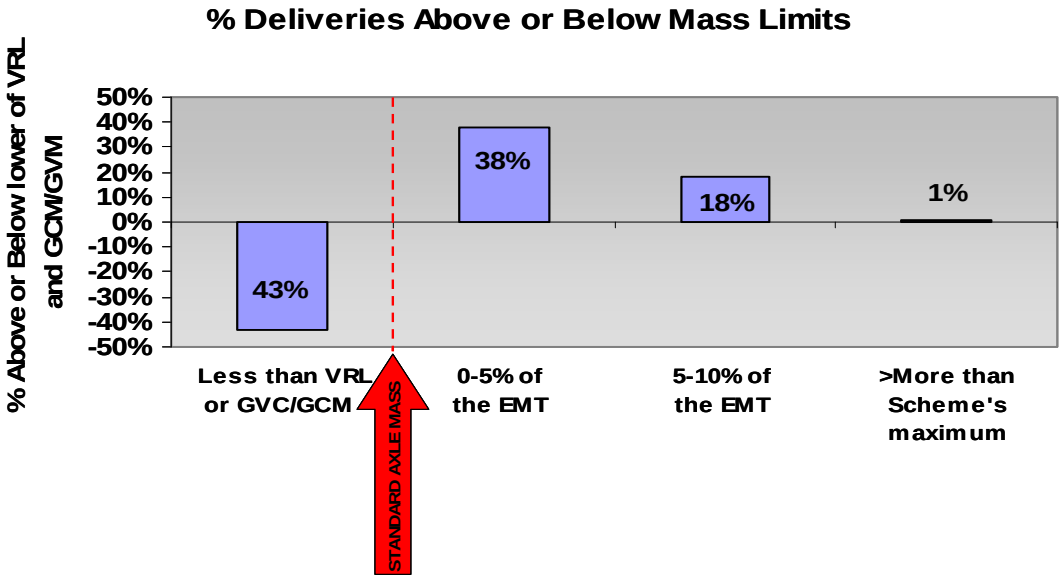
1. The Grain Industry requires a level of flexibility because of the difficulties associated with on-farm loading. Hectolitre variances, commodity density variances, paddock loading conditions and machinery speeds all impact on a farmers' or transporters' ability to accurately ascertain the total mass of a vehicle until reaching a certified weighbridge. This issue is exacerbated when farmers or transporters move to new paddocks or change the grain they are loading.
2. The Bill allows for forfeiture of grain or rejection of a vehicle by the storage facility if the vehicle is found to be overloaded. Both these options are commercially unviable if there is no flexibility for farmers as it will force under loading of grain vehicles. Farmers would choose to under load because the value of grain potentially forfeited would be too much for the farmer to forgo and the cost of making double trips for one load is to expensive to be viable. The effects of under loading are presented below in the arguments section.
3. The Grain Industry believes the effect of under loading will be the increased likelihood of road accidents, lost value of grain due to weather damage, financial strain on the Grain and Transport industries and increased pollution.
4. The Grain Industry's production levels vary greatly every year due to rainfall patterns. There are no other industries which have the same variance in production levels from year to year in Western Australia. Furthermore there are no other commodity industries which have the same number of loading points. It is estimated that there are over 7,500 loading points during harvest compared to some 600 for the mining industry. Accordingly the Bill should take the industry's special conditions into account.
5. Mass Concessions exist today under schemes administered by MRWA (Concessional Loading Scheme and Certified Weighbridge Mass Management Scheme), often with higher flexibilities than 10%.

HMMS Overload Statistics



Interpreting HMMS Statistics

1. In 2005/06 15% of deliveries would have been above HMMS flexibility limits if HMMS was operating; this was reduced to less than 1% upon the introduction of HMMS in 2006/07
2. In 2005/06, 71% of deliveries were above the standard axle mass Vehicle Regulation Limits (VRL). Following the introduction of the HMMS, this reduced to 41%
3. 81% of all loads were either below the VRL or less than 5% above in 2006/07. This demonstrates that farmers were aiming for the standard axle mass and not the maximum flexibility threshold.
4. Farmers and transporters were benefiting from the flexibility, but not abusing it with only 1% above the Scheme limits.
5. Very similar results have also been observed in both 2008/09 and the current 2009/10 harvests



Arguments in favour of a 10% Flexibility

Economic Value of the Grain Industry to Western Australia

- The West Australian Grain Industry was worth $2,296 million in exports alone to the West Australian economy over the 2006/2007 financial year (ABS). Three seasons previous, the industry was worth $2,923 million; which is some $627 million dollars more (ABS). This difference illustrates the variance of industry value depending on growing conditions. This is not an issue that faces any other commodity market in Western Australia.

- Western Australia's exports were worth $19,145 million, for the 2006/2007 year, with the Grain Industry making up 12% of West Australia's export value. (ABS)

- West Australia's Gross State Demand was $28,418 million of which grain makes up 8.08% of that total amount.

- The above figures demonstrate the size and importance of the West Australian Grain Industry to the State's economy. Given the seasonal issues the industry faces it should be assisted and facilitated by the West Australian Government to ensure that it continues to substantially contribute to the economy.

Increasing Transport Costs

- Estimated road transport cost for West Australian farmers over an average harvest. 2005/2006 - $127, 841, 628

- The figures above are based on average farm gate to bin transport expense - average distance travelled from farm to storage facility was 80km, an average load was 31.2mt and the average NTK rate was13cents.

- CBH had 394,053 loads delivered to its bins in 2005/06 season which represents a moderate year. Of these loads 73% of them were over legal VRL limits. Under the Bill these deliveries would be turned away and thus 287,659 extra round trips would be made by transporters and farmers.

- This is not only an extraordinary waste of labour time, fuel costs, wear and tear on the roads but an extraordinary cost to farmers. If the same number of loads were to be turned away to make a second round trip it would conservatively cost some $72,869,728 in farmers' freight alone.

- Transport costs are increasing at a rate above the State's CPI index due to oil prices, labour wage rates and scarcity of resources because of the mining industry's requirements. The Grain Industry (like many other industries) can not afford to keep incurring upward spiralling transport costs.

Effect of Zero Flexibility Approach

- If zero flexibility remains in the Bill, it will result in growers being forced to under load to ensure compliance and reduce the risk of unnecessarily forfeiting grain or being rejected and having to make a second trip. It is estimated that farmers and transporters will have to under load by 10-15% to ensure legal levels.

- The minimum cost of under loading to the industry is estimated to be $12,975,925 conservatively.

- Based on 0% flexibility and 10% under-loading, Farmers will have to make approx 43,784 more round trips; at an average round trip distance of 160km; there will be 7,005,387 extra kilometres travelled by trucks over harvest. This has four major outcomes:

1. Safety:
    - Approx 40,000 more round trips on country roads during Harvest
    - Increase probability accidents on country roads

2. Cause freight prices to rise to compensate for
    - dead freight
    - increased fuel consumption
    - extra maintenance on vehicles
    - driver travelling time increased
    - increased farm labour hours through lengthened harvesting period

3. Environmental impact with increased pollution
    - To introduce legislation that directly increases pollution is contrary to the government's current position on sustainable practices

4. Grain Damage risk due to:
    - The longer harvest period will cause grain to be exposed to weather events longer than normal. This will inturn increase the risk of quality deterioration and therefore reduction in grain value.

Safety on WA Roads

- Extra round trips on country roads during Harvest increase the probability of accidents.

- MRWA does not capture data on the volume of heavy vehicles travelling on rural roads, nor the frequency of heavy vehicle traffic on specific roads.

- According to Monash University's Accident Research Centre, The Bureau of Transport and Regional Economics and The Department of Transport's figures, there will be 5.2 extra Heavy Vehicle accidents during the harvest period if the extra number of trips made by transporters and farmers are close in number to the estimates.

- A major concern to rural communities is that Heavy Vehicles are involved in approximately 10% of all fatal crashes on Western Australian roads. This issue is compounded by the fact that 50% of all heavy vehicle accidents involve another vehicle or pedestrian, which increases the likelihood of a fatality.

- Providing for flexibility in the Bill does not create unsafe roads. It will minimise the number of heavy vehicle trips during the harvest period which has a direct correlation to road safety.

Under-loading Effects if Grain is Forfeited

- Farmers may want to reduce the burden of having another 287,659 extra trips on country roads, and choose to forfeit all excess grain. Based on HMMS figures during previous harvest periods 45% of overloaded vehicles chose to forfeit their grain at an average of 0.4292 tonnes per truck. This equals 123,463 tonnes of grain forfeited; at an average price of $400 per tonne this totals a loss of $49,385,297 to the farming industry over a 3 month window.

- Dramatically rising grain prices since the 2006/07 harvest will result in fewer forfeits in the future, with growers deciding it is more economic to 'reject' and return to their farms to rectify the load.

Submissions

- That the Bill be amended to make provision for mass management schemes or mass management concessions that are Grain Industry specific.

- That sections 29/30 of Part 4 be amended to remove any penalties for 0-5% and 5-10% for vehicles transporting grain during the months of October, November, December and January. Conversely, that some reference to the HMMS be enshrined within the legislation that gives industry some confidence that the HMMS will remain in place beyond the date defined in the WA Government Gazette No 181 dated October 2009.

- With regard to the Improvement notices defined in Part 6, Dvision 4:

    - There is no legislative right to review the issue of a notice by an independent body,

    - The requirement to apply the terms of the improvement notice in less than seven days may prove impractical or unreasonably expensive in the context of a business such as CBH which is relatively large and dispersed.

    - There is no defence, deferral or appeal mechanism available in circumstances of a breach where the improvement notice has been incorrectly issued.