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To: [cande](#)
Subject: C&E Legislation
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Dear Sir

When the notion of Chain of Responsibility legislation was first considered in the mid 1990's discussion centered around the need to protect the weaker parts of the transport supply chain against the stronger elements that were and are continually demanding unrealistic expectations particularly in the areas of mass and driving hours.

Over the many years of developing this legislation some of this has been lost to the extent that we now have draft legislation that deals only with mass and dimension with, in my view, a major focus on the transporter rather than the whole chain of responsibility. Whilst it can be argued that in the main the legislation is good there are, again in my opinion, two very large concerns for road transport operators. These are as follows:

1. The break points for both dimension and mass are far too low and completely impractical from an operator point of view. In many cases the slightest shift in load will take the operator into the "substantial or severe offences area".
 - a. In the case of dimension this can happen even if the load has been properly restrained in accordance with the Load Restraint Guide. It can be caused by poor road conditions or sudden unusual vehicle movements caused by the need to avoid other road users not doing the right thing. The relatively minor allowances of less than 40mm for minor, 40mm – 80mm for substantial and above 80mm for severe are very difficult for a driver to see when traveling particularly in a multi combination vehicle. In almost every case where there is movement it is impossible to fix on the road which means the vehicle will be virtually grounded until the appropriate manual handling equipment is available or the driver is faced with taking the risk of being fined.
 - b. A similar situation occurs with mass. With the minor mass breach being set as low as 5% there will be many situations where loads are loaded correctly at origin and move in transit resulting in the vehicle being within the overall gross mass but over on one axle group.
 - c. In both cases, drivers and others in the chain will be forced to constantly defend themselves in court trying to prove they were not the responsible party or there was no intention to overload. The net outcome will be a massive loss of industry productivity whilst drivers and others try to protect themselves from these unreasonable conditions.
2. The second area of concern is the General Liability provisions. My understanding of this is that if a body corporate is found to commit an offence then management are taken to commit an offence. This also applies to partnerships and employers and employees. It appears there is no obligation for the enforcement body to properly investigate the offence to find the actual offender. This area alone appears to be contrary to the original spirit of the proposed legislation which was to protect the innocent and weaker members of the chain. Clearly the original aim of the legislation to provide some protection for the weaker links in the chain will not be achieved if this section of the legislation stands. This has now been given away to allowing enforcement officers to take the easy route to charge one and all with the hope that all will give in to frustration and pay up.

Conclusion

As mentioned earlier there is a general view that in the right format the C & E Legislation will bring benefits to the road transport industry however it seems that through overzealous drafting particularly in the enforcement provisions and a lack of operational knowledge in relation to the break points the intend benefits will not be achieved.

Finally I will be happy to discuss this further if required.

Regards Howard Croxon
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