

# MEDIA RELEASE



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## **STREAMLINE CHAIN OF RESPONSIBILITY**

The chain of responsibility provisions in the Heavy Vehicle National Law should be streamlined to reduce complexity without affecting safety, the Chief Executive of the Australian Trucking Association, Stuart St Clair, said today.

The restructure is one of the recommendations in the ATA submission to the National Transport Commission's Chain of Responsibility (CoR) duties review.

"The ATA has long argued that the complexity and inconsistency of the existing CoR provisions is a problem for industry and regulators. Even prosecutors and judges have trouble understanding them," Mr St Clair said.

"From an industry point of view, the lack of clarity and sensible organisation in the law makes it unnecessarily difficult for businesses, managers and employees to understand and comply with their legal obligations.

"To address these issues, the CoR duties in the law should be restructured into a single chapter and duplicate provisions removed."

The ATA submission argues the requirement that businesses must take 'all reasonable steps' to prevent contraventions is misleading and has serious practical problems.

"The ATA proposes retiring the concept of 'all reasonable steps' and replacing it with the work health and safety standard, 'so far as is reasonably practicable'," Mr St Clair said.

"Businesses have a clear understanding of their obligations under 'so far as is reasonably practicable.' In addition, it has a history of consistent interpretation by the courts going back to 1949.

"There is probably little legal difference between the two standards, so the proposal would make the law clearer and more understandable without affecting safety.

"The submission recommends that what the NTC calls 'chapter-based' duties should be introduced to cover vehicle safety and standards; mass, dimension and load restraint; and speeding. There is already a chapter based duty relating to fatigue.

"These duties would require businesses to ensure, so far as is reasonably practicable, that contraventions in each area covered by the law do not occur.

"Adding these extra duties would fill in some gaps, avoid the need for tinkering as business practices change, and enable seven overly-prescriptive requirements to be removed."

The ATA submission also recommends that the National Heavy Vehicle Regulator publish guidelines for non-mandatory codes of practice to help businesses meet their CoR obligations.

"An integral part of best practice safety regulation is the availability of evidentiary standards, such as industry codes of practice, that have special legal significance. Proof of compliance with an approved code of practice can be used as evidence of whether a duty has been complied with," Mr St Clair said.

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“Apart from transitional codes that were registered under the previous state laws, there are no codes of practice available under the HVNL, nor has the NHVR released guidelines for registering one.

“The NHVR should issue these guidelines as soon as possible. In addition, the NHVR and NTC should publish more non-code guidance material about how businesses can comply.”

The submission is available at <http://www.truck.net.au/advocacy/submissions/ntc-chain-responsibility-duties-review-submission>.

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