

# MEDIA RELEASE



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## **SIMPLIFY CHAIN OF RESPONSIBILITY AND PUT SAFETY FIRST, ATA SAYS**

The chain of responsibility (CoR) legislation should be streamlined and safety prioritised through the introduction of a general duty that applies to trucking operators, consignors and all other chain parties, the CEO of the Australian Trucking Association, Christopher Melham, said today.

The call was one of the recommendations in the ATA submission to the National Transport Commission's 'Primary duties for chain of responsibility parties and executive officer liability' discussion paper.

Mr Melham said a major problem with the current legislation was the way CoR duties attempted to prescribe exactly how businesses must operate, discouraging innovation and creating unnecessary red tape.

"Best practice safety legislation uses primary (or general) duties to outline the scope of a business's responsibilities, and allows businesses to develop their own procedures to meet these standards," he said.

"As such, we recommend that a general safety duty is developed to apply to all chain of responsibility parties.

"This approach would improve safety, because CoR parties would have to consider their operations as a whole rather than ticking off compliance boxes. The obligations on businesses and staff would be clear, instead of hidden in concepts like deemed liability.

"The introduction of general duties would also open the way for many complex, duplicated and overlapping provisions to be removed from the Heavy Vehicle National Law, providing red tape reduction benefits for industry, regulators and the courts.

"The NTC has argued that the current CoR duties should be replaced by a general duty for trucking operators, employers and prime contractors only, with narrower, role-specific duties for other chain parties. However, this approach is not appropriate for road freight transport.

"Given the broad influence of chain parties like consignors and consignees, it would be counterproductive to exclude them from the general duty, and likely have a considerable impact on their perceived legal responsibility."

Mr Melham said it was essential for chain parties to understand the extent of their duties.

"The CoR duties currently require parties to take 'all reasonable steps' to prevent contraventions of the law, but there are serious practical problems with this requirement. 'All reasonable steps' is not defined anywhere in the law," he said.

"The ATA proposes to replace 'all reasonable steps' with 'so far as is reasonably practicable', as used in the model WHS Act. This is well defined and has a long history of consistent interpretation by the courts.

"In a recent study, the ATA found that almost a quarter of road freight management positions require both CoR and WHS experience. Aligning the standards would significantly reduce the paperwork burden on these professionals."

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The submission reiterated the ATA's call for the NHVR to develop guidelines to approve industry codes of practice as a matter of urgency.

"The availability of codes of practice with evidentiary status is an integral part of best practice safety regulation. Codes of practice identify one way of complying with the law, while enabling sophisticated businesses to comply in other ways," Mr Melham said.

"However, no CoR codes are available, aside from transitional codes in Victoria and SA. Not only that, but the NHVR has not yet developed guidelines for approving codes.

"Codes of practice are not a nice-to-have that can be developed when the regulator's other priorities permit. They must be seen as an integral part of the model.

"The NHVR needs to put these guidelines in place immediately, and approved codes of practice should be available for use before the new system of duties comes into effect."

The submission is available at <http://www.truck.net.au/advocacy/submissions/primary-duties-chain-responsibility-parties-and-executive-officer-liability>.

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