

MEDIA RELEASE



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MAINTAIN SAFETY IN EXECUTIVE OFFICER LIABILITY REVIEW

The Australian Trucking Association (ATA) has today called for corporate officers and directors to be personally liable under the Heavy Vehicle National Law for exercising due diligence to prevent 34 specific safety critical offences, as part of its submission to the NTC's executive officer liability review.

"Governments agreed last year to introduce a positive due diligence obligation for executive officers to ensure businesses in the road transport chain of responsibility comply with a new primary safety duty," ATA Chief Executive Christopher Melham said.

"This was a big win for safety, as the new law will encourage officers to focus on improving safety outcomes, rather than spending hours on meeting highly prescriptive paperwork.

"The NTC is now examining whether that obligation should be extended to the non-chain of responsibility duties and obligations in the current law. However, the ATA is concerned that some of the options set out in the review may weaken industry safety, not strengthen it.

"Option 2 was to remove executive officer liability for non-CoR offences, including serious safety offences related to vehicle registration, operating an unsafe heavy vehicle and speed limiter tampering.

"Although the executive officers of chain parties would still have a due diligence obligation to ensure compliance with the new primary safety duty, the ATA and the NTC agree that this option could reduce safety, because officers would no longer be personally liable for these specific offences.

"Safety has to be our industry's first priority. While the industry's safety record is continuing to improve, governments must avoid taking a backwards safety step in this area."

The ATA submission instead recommends that governments adopt NTC option 3, which would impose a due diligence obligation on executives for 34 safety critical offences in addition to the planned primary safety duty due diligence obligation

"Option 3 would create a consistent approach to executive officer liability across the Heavy Vehicle National Law. It would encourage higher levels of compliance and safety," Mr Melham said.

The submission rejects a fourth option considered in the review, which would make executive officers personally responsible for exercising due diligence to prevent some 200 additional offences, many of an administrative nature.

"Option 4 would swamp critically important safety obligations under a requirement for executive officers to exercise due diligence to prevent an overwhelming number of less serious offences," he said.

The ATA submission is available at <http://www.truck.net.au/advocacy/submissions/ntc-executive-officer-due-diligence-submission>.

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