

## Executive perspectives: compliance and regulation – help or hindrance?



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### **What is the Association's view on the current safety and compliance standards in the industry?**

The bulk of the industry takes safety and compliance very seriously and overall we've seen a tremendous improvement in this area in recent years. I think the issue is that the industry is very diverse and fragmented, and there are those who for a variety of reasons haven't necessarily lifted their games to the level that would be expected, but we believe that they're certainly more the exception to the rule than prevalent.

### **Any changes will bring about an increased cost of compliance, what are the implications of this increased cost to the industry?**

Traditionally as an industry we've struggled with cost recovery, and passing on cost increases to clients will be problematic.

There's also the increased complexity involved with compliance. The industry is still dominated by small businesses – in particular one-truck subcontractors outsourcing to larger prime contractors. By adding cost and complexity we're forcing these single truck operators out of the industry.

This phenomenon has been going on for a number of years as compliance has increased and it's already resulted in literally thousands of sub contractors exiting the industry. These resources have to then be replaced by company-owned vehicles, creating a greater demand on capital in those businesses - to go and purchase their own trucks and source their own drivers – rather than relying on the subcontractor fleet.

In addition, the federal government has just introduced the Road Safety Remuneration Bill and depending on how that legislation is applied there's potential to significantly alter costs in certain segments of the industry. At this stage the degree to which that will impact us is unclear as there haven't been any cases relating to that legislation.

### **What are the operational challenges in stepping to a higher level of regulation and oversight?**

Challenges are going to be faced by both the operators and the users of transport services. Increased compliance – particularly in relation to fatigue management – impacts loading, unloading and waiting times. These times are either going to have to be managed to ensure that the drivers stay within the legal parameters, or the industry is going to have to utilise greater resources to do the unloading and loading at each end of the trip, which will add significant costs to the freight task.

### **Has the current level of regulation been adequate in its effectiveness or has it been toothless?**

Generally speaking the level of regulation is adequate and in some cases you could argue that it's excessive. In particular the Chain of Responsibility Laws have the potential to be very effective. These laws broaden the obligation for compliance from just the truck driver to all participants in the supply chain. It means that senders, receivers, customers, forklift drivers – anyone who is in the supply chain – may be held responsible for insurance and can be individually charged for breaches.

The issue isn't around compliance, it's around the level of enforcement and this is the area that requires improvement. Inadequate enforcement creates an environment where operators are able to gain a competitive advantage by circumventing the laws. We would argue that the industry certainly doesn't need any more regulation but that it needs significantly better enforcement of legislation.

### **How does Australia's safety and compliance regulation compare on an international basis?**

If you look around the world you could argue that our safety and compliance regulations are world class, in particular the Chain of Responsibility Laws which impose duties on

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industry customers as well as the industry. Users of freight are quite often unaware that they have a specific responsibility to take reasonable steps to ensure the compliance of transport operators.

There was a study 10 years ago that showed that Australia had a higher vehicle fatality rate than the United States and the United Kingdom, but comparable or significantly better rates than Germany, Canada, Sweden, France and New Zealand. Where our performance sits below other countries is usually where they have significantly greater levels of divided road. Our road network and safety regulations have improved substantially since then, so we're getting better all the time.

There are still areas however where improved regulation can increase safety and create a fairer legal environment for trucking businesses.

For example the new Heavy Vehicle National Laws (HVNL) that are due to come into force in January 2013, reverse the presumption of innocence for trucking company directors. They would be presumed guilty if their business commits an offence and they would then have to prove their innocence. This conflicts with new Work Health and Safety (WHS) Laws that impose a burden of proof on the prosecution.

As an industry we are working hard to get this changed because we think it abandons one of the most fundamental legal principles of the criminal justice system.

**What is the Association's view of the implication of higher standards for driver education and recruitment of qualified drivers?**

We strongly encourage people who want to become truck drivers to do a recognised certificate course through their local TAFE or registered training organisation rather than simply getting a truck license. In particular a Certificate III in Driving Operations provides the driver with driving skills but also with workplace safety skills, manual and handling skills, and the other sort of ancillary requirements to do their job effectively and safely.

**To what extent do you think the issue of safety can be addressed by increasing regulation rather than improving the road network?**

The safety record in the industry has improved steadily in recent years with the fatal crash rate for articulated trucks improving by more than 60% since 1982. As an organisation we've commissioned research through the University of Adelaide that shows that most safety gains have been due to mass road safety

initiatives – these include divided highways, sealed shoulders and improvement in vehicle design.

The Chain of Responsibility Laws have also made a big difference. The reality however is that about 40% of truck crashes are caused by speed or fatigue, so as an industry we've certainly got scope to improve.

One area to note is that the majority of accidents between trucks and cars are caused by the car drivers. Car drivers need greater and better education about how to share the road with trucks and how to deal with trucks when they're travelling on the same road.

The other area where we'd like to see progress is around the increased use of higher productivity vehicles like B-doubles and B-triples. B-doubles are prime movers with two trailers whose drivers are required to be licensed to a higher standard. They carry about 46% of Australia's freight but only account for 29% of truck crashes. These higher productivity vehicles mean you've got fewer trucks on the road and as a result less opportunity for accidents.

