Heavy Vehicle Compliance and Enforcement

Regulating Heavy Vehicles for Safety and Efficiency

Australia as a Case Study

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Traditional road transport regulation

- enforcement rather than compliance focused
- drivers and vehicle owners/operators are the sole targets
- role of other parties not addressed
- directors, secretaries and senior managers not personally accountable
The problems with this ...

• not effective in producing long-term improvements in compliance

• no incentive for other responsible parties to prevent breaches

• unfair commercial advantage gained by all who cause or contribute to breaches

• company managers can hide behind the corporate veil
What influences heavy vehicle compliance?

- Scheduling
- Vehicle capability
- Travel delays
- Staff demands
- Loading practices
- Customer demands
- Competitive pressure
National Compliance Programme

Conventional Compliance
- legislative provisions for:
  - chain of responsibility
  - risk-based offences
  - enforcement powers
  - evidentiary provisions
  - penalties and sanctions

Incentives Schemes
Privileges Schemes
Training
Education & Communication
Effective & well targeted enforcement practices

ONGOING RESEARCH
ONGOING MONITORING
Giving the concept ‘teeth’
Road Transport Reform (Compliance and Enforcement) Bill

Model provisions

Note: these provisions are intended to be adapted for use in each jurisdiction according to local requirements and local law.

A Bill for an Act to make provision for compliance with, and enforcement of, certain laws that form part of the system of nationally consistent road transport laws.

Enacting formula

Part 1 Preliminary

Division 1 Introductory

1 Short title and purpose

This Act may be cited as the Road Transport Reform (Compliance and Enforcement) Act 2003.

2 Commencement
Key elements of Bill

- chain of responsibility provisions
- risk-based categorisation of offences
- enforcement powers linked to risk
- evidentiary provisions to facilitate interstate and inter-agency investigations and proceedings
- hierarchy of penalties
What is the ‘chain of responsibility’?

CONTROL = RESPONSIBILITY = LEGAL LIABILITY

- responsibility may overlap
- liability for actions / inactions
- ‘reasonable steps’ defence
What is the ‘reasonable steps’ defence?

- did not know of breach
- could not be reasonably expected to have known
- took all reasonable steps to prevent breach
- ‘industry code of practice’ may assist to prove the defence
Fatigue management chain of responsibility
What is ‘risk categorisation’?

- penalties
- enforcement powers
- defences

increasing sanctions
increasing risk
Hierarchy of responsive penalties

- Prohibition orders
- Orders affecting licences / registration
- Supervisory intervention orders
- Compensation orders
- Commercial benefits penalties
- Fines (based on risk)
- Infringement notices
- Formal warnings
- Improvement notices

COURT IMPOSED

OFFICER IMPOSED

National Transport Commission
Strategic enforcement

• expanded investigative powers

• national guidelines for:
  – chain of responsibility investigations
  – applying the new enforcement tools
  – applying the new sanctions

• interstate recognition of evidence and offences

• interstate and inter-agency authorisation of officers

• Intelligent Access Bill

• national Heavy Vehicle Enforcement Strategy
National enforcement officer competencies and training

- previously, no nationally consistent competency standards for enforcement personnel
- new nationally-endorsed competencies and qualifications for ‘transport compliance officers’
- nationally consistent training materials
National communications

- national education and communications
- long-term strategy
- working with industry
Developing the approach: problem identification

- Identifying problems through industry workshops and meetings since 1994
- Site visits and discussions with all parties in chain
- Involvement of key industry participants in policy and legislation development
Developing the approach – research and analysis

- analysing current models operating in Australia and overseas in road transport regulation and other areas of regulation (particularly OH&S and environment protection)
- consulting legal experts in areas such as criminology and regulatory theory
- tailoring effective models for application to the road transport regulatory context
- developing new approaches where existing models do not address the identified regulatory ‘gaps’
Developing the approach: working together

- High level and broad-based Compliance Reference Group
- Two national conferences
- Legislation Advisory Panel
- National consultations and seminars
- Transport Agencies Chief Executives
Will it work?

- consensus of consultation
- commitment of Ministers
- commitment of transport and police agencies
- responsible businesses already taking steps, including developing industry compliance codes:
  - shipping containers
  - retailers
  - steel industry
  - automotive industry
  - gypsum industry
  - logging
Is it working?

- ‘patchy’ implementation
- reform cherry-picking undermines the realisation of anticipated benefits
- transport agencies are talking the talk, but finding it hard to change

‘All politics is local. When leaders or ministers sign a global communique that implies some action, they will deliver only if it suits them domestically.’

Tim Colebatch ‘The Age’ November 21 20/06 (‘Climate change may achieve what street protests could not)
But …

- surveys indicate:
  - CoR as a concept is widely understood and accepted
  - there is a belief that CoR laws are in place throughout the country and are enforceable

- other key agencies are increasingly interested

- industry from all key sectors is leading the charge, communicating the concepts and making the changes

- NTC continues to build upon and reinforce these reforms, seeking leverage from local industry and COAG, and evidence of positive implementation outcomes
More information

www.ntc.gov.au