

Issue

On the 30 September 2005, 'chain of responsibility' (COR) legislation took effect in NSW. The *Road Transport (General) Act* effectively makes every party in the heavy vehicle transport chain potentially responsible for breaches relating to mass, dimension and loading. This will mean farmers (particularly grain and livestock producers) will be exposed to penalty and liability risk as they cannot accurately assess truck weights on farm.

Background

- The intent of COR legislation is to improve compliance with respect to road safety, infrastructure, the environment and the adverse impacts of road transport on the community. The legislation is derived at a Federal level through the National Transport Commission which developed template legislation for state adoption. While the legislation emanates from truck driver complaints that fatigue related accidents were also the responsibility of other transport chain participants, it now impacts other industries such as agriculture.
- The State Government aims to improve compliance by imposing administrative or court imposed penalties based on whether the infringement is 'minor' (up to \$5,500 penalty for eg >5% above regulation mass limits), 'substantial' or 'severe' (court imposed penalty for eg >20% above regulation mass limits) and by providing the RTA with special powers to investigate including the ability to inspect, search premises/ vehicles, disclose information or seize equipment. Importantly while NSW Farmers' Association objected to the legislation we had at that stage Ministerial support for the development of schemes such as a Grain Harvest Management Scheme (GHMS).
- The RTA have stated that it will undertake chain of responsibility investigations if for example there is evidence of habitual breaches, evidence of continued unfair commercial advantage as a result of these breaches, a road accident and/ or evidence of unreasonable demands on other supply chain participants to breach.
- Farmers are likely to be impacted by the legislation particularly when transporting farm produce. Of concern is that farmers often cannot accurately assess truck weights on farm due to variations in the factors which influence grain and livestock weight and the fact that the produce is only weighed at destination or not at all. For instance due to density and moisture variation, wheat test weights at Narrabri last harvest for the same volume varied by 21% with barley varying by 26%. Livestock weights similarly vary due to differences in breed, age, condition, feed retention and weather. As a result, despite farmer's best intentions, trucks could easily breach regulation gross vehicle mass limits under COR legislation.
- Given these concerns, NSW Farmers' Association has attempted to introduce schemes that will provide grain and livestock producers truck weight flexibility under the legislation. While a GHMS has been introduced in QLD and WA, the NSW Government will only support a scheme that offers negligible truck weight flexibility (monthly truck mass average of 250kg above regulation limits) in return for the provision of substantial weighbridge data for enforcement purposes. Similarly, every state in Australia has introduced livestock loading schemes, yet the NSW Government refuses to acknowledge farmers' unfair liability exposure under COR legislation.

Where to from here

- The Association has at present rejected the RTA's proposed GHMS yet will attempt to renegotiate both a GHMS and livestock loading scheme in the future once the impact and data from COR legislation is available. In the meantime, while the following 'best practice measures' do not eliminate farmers liabilities under COR legislation, they are recommended to assist in preventing regulation mass limit breaches occurring;

- ***Ensure all parties involved in the loading of your vehicle are aware of their COR obligations***
- ***Advise contract carters/ harvesters that repeated overloading will result in contract termination.***
- ***Advise casual labour that continual overloading is a sackable offence.***
- ***Where possible, draw lines on the inside of grain truck bins to indicate legal mass levels.***
- ***Where possible, utilise highway weighbridges to ascertain truck weights.***
- ***Collect grain truck weighbridge tickets regularly (every evening) to monitor any mass breaches.***
- ***Ensure livestock are 'emptied out' before transportation***
- ***Ensure truck drivers immediately report breaches upon returning to the paddock so that preventative action can be undertaken.***
- ***Whenever possible, trucks be loaded by at least two people***
- ***When harvesting a new variety, harvesting after a rain event, or any other situation where grain weight is unknown, special care be taken to prevent future trucks being overloaded***
- ***Where there are multiple livestock consignments on the one truck; demand signed consignment details.***
- ***Do not sign away liability to other transport chain participants***