

20 August 2013

CoR Review
National Transport Commission
Level 15/628 Bourke Street
MELBOURNE VIC 3000

Dear Sir/Madam

CHAIN OF RESPONSIBILITY IN THE HEAVY VEHICLE NATIONAL LAW

The National Farmers' Federation (NFF) welcomes the opportunity to provide comment on Chain of Responsibility (CoR) provisions in Heavy Vehicle National Law. The NFF notes that the Standing Council on Transport and Infrastructure aims to identify how to make the 'chain of responsibility' provisions in the Heavy Vehicle National Law (HVNL) more effective, appropriate and fair.

The NFF, as the peak representative body of the farming sector, urges Government's to consider the implications for farmers of any further changes to the HVNL (especially additional regulation or bureaucracy). In addition to driving their own trucks, agricultural producers often consign and assist with loading and unloading of goods. Generally, in an agricultural supply chain, costs incurred throughout the system are passed back to the farmer. The case is no different in transport regulation and consideration needs to be given as to how best to minimise costs incurred through the CoR process.

Ideally, the aim of the CoR should be to promote safety without prohibiting productivity and efficiency or adding another unnecessary layer of bureaucracy. The CoR should not discriminate in business size (for example, it should not limit smaller businesses operator's opportunities due to their liability). The unique operating environment of many areas in Australia (such as northern Australia pastoral areas) also needs to be considered, and producers operating in these unique environments should not be penalised due to the location of their business.

The NFF affirms it is reasonable to expect that all parties along the supply chain are fulfilling their responsibility. For example, a producer expects a truck driver to have a roadworthy vehicle, drive with care, comply with fatigue and other regulations and so forth. Equally, the truck driver should expect a loading ramp on farm should be safe. These 'reasonable' expectations of CoR should not deter individual players in agricultural freight from wanting to participate or be too onerous on any party to the CoR.

Within the agricultural industry, CoR issues are best managed as a whole supply chain, not by placing legal requirements on a specific member of that supply chain to comply (particularly when compliance can be difficult to achieve and monitor). **Attachment A** provides a case study from the Australian sugarcane industry, highlighting some of the factors that need to be considered in application of CoR provisions and an example where NFF member – CANEGROWERS, has taken a lead role in ensuring industry understanding and improved compliance. It would be worthwhile for the National Heavy Vehicle Regulator and National Transport Commission to consider how they could further work with peak industry bodies in provision of similar targeted information.

Building greater flexibility into the CoR would result in benefits to many industries, not just agricultural producers. Greater flexibility within the CoR would assist in promoting safer road practices. Currently the CoR is not flexible enough and does not provide adequate arrangements to allow for certain activities, such as unloading a grossly overloaded vehicle (for example, over a Grain Harvest Management Scheme rejection limit) at a grain receival depot. A preferable system would allow the truck to be unloaded, but would provide sufficient penalty so that the owner of the truck and owner of the grain would be deterred from overloading again. The reasoning behind this is that should the vehicle be prevented from unloading the grain due to being over the load limit, the travel back to the farm or alternative storage facility will do further damage to the road, thereby resulting in an unintended consequence and practical anomaly.

In order to maximise compliance to HVNL, the NFF would support education initiatives to improve understanding of all parties with responsibility under the CoR. Such initiatives also need to be consistent and coordinated to align with the greater strategic requirements or direction of other responsibilities within the CoR, including animal welfare and occupational health and safety. The collection of additional freight data to help inform the ongoing work program, will be an important additional benefit from the National Heavy Vehicle Regulator.

In summary, the NFF see the following as key areas for further consideration: improving flexibility to allow for practical farm sector activity; providing targeted education resources to all impacted parties; and exploring how industry impacts may be minimised through the establishment of the National Heavy Vehicle Regulator. The NFF and its members look forward to working with the National Heavy Vehicle Regulator and National Transport Commission to ensure the needs of farmers are addressed.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Matt Linnegar', written in a cursive style.

MATT LINNEGAR
Chief Executive Officer

Chain of responsibility in the Australian sugarcane industry

A key concern for road safety during harvest of sugarcane is the issue of spilled sugarcane billets on public roads – while this issue may occur infrequently, it is an important issue that must be appropriately managed. Large quantities of sugarcane billets deposited on public roads are a road hazard. In rare cases, billets can become airborne (similar to large rocks) and pose a significant threat to road users.

In examining chain of responsibility for harvesting and transport of sugarcane billets, there are several actors involved:

Haul-out operators:

Haul-out operators are ultimately legally responsible for ensuring billets are not spilled on public roads. If billets are spilled, haul-out operators have a legal responsibility to remove the billets so they do not represent any hazard to other road users. However, due to the method and means of harvesting sugarcane, haul-out drivers are not able to control the quantity of sugarcane deposited in their bins behind the tractor/truck.

Harvester operators:

Harvester operators have the control over the volume of sugarcane deposited into the bin of a haul-out vehicle. However, harvester drivers are not immediately responsible for billets that are spilled as a result of over-filling or imbalanced filling within a haul-out bin. Harvester operators are often encouraged by farm owners or mill managers to increase bin weights – this is often done by filling haul-out bins to a maximum capacity. Decision-making by harvesters can be impacted by the area to be harvested and the number of bins provided by a sugarcane mill.

Mill managers:

Mills are involved in the chain of responsibility for ensuring billets are not spilled by ensuring an adequate number of bins are provided to ensure all cane in a paddock can be harvested and safely transported for processing. At times, bins can become scarce and this encourages harvester operators to attempt to fill cane bins beyond their capacity.

Farm managers:

Harvester and haul-out operators are employed by farm managers to harvest sugarcane and ensure delivery of cane to a siding (for further transport to the local mill). Farm managers are responsible for directing harvesting operations on their farms. Decisions by farm managers regarding harvesting decisions to fill bins may impact on potential to cause spillage, however they have no direct link with or duty of care for billet spillage on public roads.

Issue management

As the peak representative body of the sugarcane industry, CANEGROWERS has taken an active industry management role. As an organisation, CANEGROWERS developed a “Transport and Road Safety Committee” that comprises of CANEGROWERS staff and sugarcane farmers.

The CANEGROWERS Transport Committee have developed a non-binding industry guideline – for loading of cane haulage units for travel on public roads. This guideline has proven effective in assisting all members in the chain of responsibility for harvesting sugarcane meet the legal requirements, as a whole industry. The guideline is available at:

http://www.canegrowers.com.au/page/Industry_Centre/Publications/Manual_of_Cane_Growing/Transport_loading_public_road/.