



# Chain of Responsibility – Operator case studies

Under the Heavy Vehicle National Law (NSW) (HVNL) chain of responsibility (CoR) requirements apply in relation to mass, dimension, loading, fatigue management and speeding compliance for heavy vehicles. CoR provisions provide that each party in the relevant chain of responsibility must take all reasonable steps to ensure that a driver does not breach the applicable laws.

CoR provisions are important because often the conduct of the driver is a symptom and not the cause of the problems that led to a breach occurring. Each party in the relevant CoR has an obligation to avoid or prevent breaches by ensuring that they do not directly or indirectly impose requirements on a driver that will result in the driver overloading the vehicle, committing a dimension breach, contravening work or rest times, or exceeding an applicable speed limit.

Roads and Maritime Services Compliance and Enforcement officers have been active in conducting CoR investigations where it appears that parties in the CoR have failed to take all reasonable steps available to them to avoid or prevent a breach.

Every person in the CoR is responsible for ensuring mass, dimension, load restraint, fatigue management or speeding compliance requirements are met. Roads and Maritime and Police enforcement actions are targeted at all parties in the chain – you can protect yourself against action for a breach of the CoR provisions but only by ensuring that you take all reasonable steps to identify what risks may arise from your activities or those of the driver and putting in place measures that are appropriate and are reasonably likely to prevent that risk turning into a breach.

The effect of the CoR provisions and the availability of the reasonable steps defence is to impose an obligation to take active steps to guard against breaches occurring. It is not sufficient for a CoR party to say that they were not aware of problems or had no reason to believe that there

were problems – to avoid liability they must act to put in place reasonable measures to prevent breaches of the legislation.

Roadworthiness and vehicle maintenance obligations are not currently part of the CoR obligations. However, given their importance to the safe operation of heavy vehicles on our roads some case studies on good industry practice has also been included.

## Industry case studies

What follows are some case studies that showcase how operators have put in place good practices to meet a specific aspect of their compliance obligations. The case studies are set out under each of the compliance obligations:

- Fatigue management
- Speeding compliance
- Mass
- Dimension
- Loading
- Roadworthiness (even though it is not a CoR provision).

These are for illustrative purposes and it is a matter for each operator and each other person in the CoR to identify what risks they need to manage and what actions are reasonably available to them to deal effectively with those risks.

Operators need to consider all of their compliance obligations and ensure they adopt an integrated and holistic approach to meeting each element of their CoR requirements.

## Fatigue

Roads and Maritime targets fatigue management because fatigued drivers are disproportionately represented in fatal crashes and serious injury crashes on our roads. Roads and Maritime's goal is that:

- All drivers of fatigue-regulated heavy vehicles understand and manage the effects of fatigue in a safe manner that both meets their obligation not to drive while impaired by fatigue and is consistent with prescribed work and rest times
- Drivers, operators and other off-road parties develop work arrangements that take account of the effects of fatigue on heavy vehicle drivers and implement flexible and effective procedures to manage those effects
- CoR parties meet their obligation to take all reasonable steps to ensure that the driver does not drive while impaired by fatigue or commit any other fatigue offence.

### Case Study – fatigue management

A major transport operator on the east coast has implemented a fatigue management system which, even for those on Standard Hours, requires that drivers be inducted into their fatigue management system and that schedulers and supervisors successfully complete the fatigue management courses offered by the Transport and Logistics Industry Skills Council.

The operator uses its own driver management system, in addition to the mandatory written Work Diary, and provides each driver with an advance roster that takes account of work and rest times.

To ensure that drivers do more than merely comply with prescribed work and rest times and are not impaired by fatigue, supervisors check the fitness for duty of each driver before they leave the depot. For drivers who will be on the road during night hours, a shift supervisor speaks to them by mobile phone (hands free) at least once each shift as a welfare check.

At the depot, the operator provides some motel-style accommodation (soundproofed, airconditioned and fitted with black out curtains) so that drivers can obtain restorative rest.

Finally, each Work Diary daily sheet is entered into a system that tracks compliance and alerts schedulers and supervisors to any upcoming rest obligations. This permanent record is available for review by managers and forms part of the materials that the operator can rely on to show that has taken reasonable steps to avoid fatigue breaches by its drivers.

## Speeding Compliance

Roads and Maritime targets speed and speeding compliance as part of our strategic approach because excessive speed is the cause or a significant contributing factor in road fatalities involving heavy vehicles. Roads and Maritime's goal is that:

- All relevant heavy vehicles are speed limiter compliant
- All heavy vehicle drivers not only obey applicable speed limits but drive at a speed safe for the prevailing

conditions. Off-road parties meet their obligation to take all reasonable steps to ensure that the driver does not commit a speeding offence.

Investigations frequently reveal that the same poor business practices result in either speeding and/or or fatigue breaches. Speeding and driving for longer periods are both ways of catching up on a schedule or not following a schedule.

### Case Study – speeding compliance

A nationally operating general freight carrier has equipped its trucks with a vehicle and driver management system that, in addition to providing information of commercial value to the carrier, provides overspeed alerts to the driver.

The system has an escalation process that sends an alert to the Operations Manager if an overspeed is not corrected by the driver within a specified time limit. Where an escalated overspeed alert is received, operations staff immediately contact the driver to ensure that the overspeed is addressed.

Overspeeds result in the driver being counselled by the Operations Manager and/or the Compliance Manager. Repeated overspeeds result in the driver undergoing additional training. Further breaches after counselling and training result in dismissal. Overspeeds, counselling and additional training sessions are documented by the Operations Manager to demonstrate that all reasonable steps have been taken to ensure compliance.

The carrier also periodically reviews the settings on all of the fleet's speed limiters to ensure that they comply. The results of these reviews and any corrective action taken is documented by the Operations Manager, again to demonstrate that all reasonable steps were taken to ensure compliance.

### Case Study – speed limiter compliance

A nationally operating freight carrier has one of its prime movers stopped on the Hume Highway by NSW Police for exceeding the 100km/h speed limit. The vehicle is subsequently grounded by Roads and Maritime for the purpose of a speed limiter download. The speed limiter is examined by the manufacturer and found compliant. In response to the incident, the operator checked and certified its entire fleet's speed limiters (in excess of a 50 prime movers).

The operator immediately implements a vehicle and driver management system for the entire fleet. The system alerts the driver by way of an alarm if the truck exceeds the maximum 100 km/h and immediately sends an alert to the Compliance Manager who contacts the driver to ascertain the reason for speeding.

Overspeed offences result in the driver being counselled by management and repeated offences result in the driver receiving additional training and eventually dismissal. The entire fleet of drivers receive additional training in speed compliance.

The operator also implements a procedure that requires a download of the speed limiter to be undertaken every time a vehicle is serviced.

The operator shows and demonstrates that it has now taken all reasonable steps to ensure compliance.

All actions taken and results obtained from the vehicle and driver management system are documented and available for inspection.

## Mass

Roads and Maritime targets mass breaches because overmass vehicles have a disproportionate impact on public infrastructure and where an overmass heavy vehicle is involved in a crash the impact and the consequences for the persons involved and the performance of the vehicle are more serious.

Mass can also be an issue in vehicle stability. High, low-density loads result in a high centre of gravity and can induce roll-overs. Further, mass, dimension and restraint can also be related because a poorly restrained and distributed load can result in instability, or it can result in pavement impacts.

Roads and Maritime's goals is for:

- Drivers and operators to understand their mass compliance obligations and use the right vehicle for the size and type of load
- Drivers and operators stay within mass limits on the roads and routes approved for those vehicles and masses so as to protect the asset
- Off-road parties meet their obligation to take all reasonable steps to ensure that the driver does not commit a mass offence.

### Case Study – mass compliance

A leading quarrying company has established a comprehensive system for mass management in respect of heavy vehicles being loaded with stone, gravel and other extracted materials at its quarry sites.

Each truck entering any of their sites is weighed empty and provided with a weight certificate. The type and amount of product required is identified and the truck is directed to the appropriate location. The company has identified the likely volume of various products at various masses so that loader drivers are aware, on an indicative basis, of how high to fill the tray. The product required and the mass required are displayed in the cabin of the loader so that the loader driver knows what to load and how much of it to load. The buckets used on the loaders are fitted with load cells that display to both the loader driver and the truck driver the amount being loaded.

When loading is complete the truck again passes over a weighbridge and the driver is given a load ticket. If total mass or axle masses are breached the site is configured to permit the driver to return to the loading location to have the load reduced or spread out as needed. The driver then returns to the weighbridge and the process is repeated until the load complies.

Once the load ticket indicates that the load complies with mass requirement, operations staff check with the

truck driver to ensure that the product and mass are correct and the truck is permitted to depart.

A permanent record is maintained of the total mass and axle masses and of any corrective actions taken in respect of non-compliant loads.

This comprehensive system ensures compliance and also has commercial benefits in enabling the company to charge for the correct amount of material supplied to the customer. This system highlights the communication between chain of responsibility parties that is essential to successfully meeting their HVNL obligations.

## Dimension

Roads and Maritime targets dimension breaches because oversize vehicles have a disproportionate impact on public infrastructure and may pose an increased road safety risk if appropriate countermeasures and safeguards are not in place or the oversize vehicle travels on roads or routes that are not suitable for the size of vehicle. Roads and Maritime's goal is:

- For drivers and operators to understand their dimension compliance obligations and operate within dimension limits on the roads and routes approved for those vehicles
- Put in place the appropriate safeguards that may be required under a Notice or Permit and use the right route
- For CoR parties to meet their obligation to take all reasonable steps to ensure that the driver does not commit a dimension offence.

### Case Study – dimension compliance

A specialist oversize haulier operating nationally specialises in oversize loads and so the compliance process begins early with the Operations Manager talking to the client well in advance of a proposed move so that the mass and dimension can be ascertained and the proposed route can be planned.

The company has measuring equipment that ensures that it is able to accurately measure the height, width and length of the vehicle and its load – and is able to make sure that the permit it obtains covers the actual dimensions the operator is seeking to move.

The Loading Manager and the Operations Manager jointly undertake a checking process to ensure that the load has been accurately measured, that the proposed route is suitable for travel, that the permit covers the actual dimensions, including internal vehicle dimensions relating to the distribution of the load on the pavement and that appropriate warning signs and escorts are used for the move.

As with other good operators, the Operations Manager maintains a permanent record of the steps undertaken to ensure compliance. Importantly, the Operations Manager has a detailed understanding of the permit system, load restraint techniques and load distribution requirements to ensure that each vehicle is properly authorised to travel. The operator has developed arrangements for assessing each new load to ensure dimension compliance.

## Loading and load restraint

Roads and Maritime targets loading and load restraint breaches because loads that affect vehicle stability or are not properly secured pose an increased road safety risk including through an increased risk of rollover and from the consequences of a load or part of a load becoming dislodged.

The outcomes Roads and Maritime are seeking are:

- That drivers and operators understand their loading and load restraint compliance obligations
- That suitable methods of restraint are employed every time for every move
- CoR parties meet their obligation to take all reasonable steps to ensure that the driver does not commit a loading or load restraint offence.

### Case Study – loading and load restraint compliance

A leading Australian manufacturer of specialist building and construction materials has identified that because of the wide variety of lengths, masses and shapes it produces, it cannot rely on a single way of loading and restraining consignments of its products.

The manufacturer commissioned suitably qualified engineers to develop certified methods of load restraint that were specific to different types of products and now has dozens of different methods that are regularly used for different product types. In each case the method developed by the engineers took into account the dimensions, mass and shape of the product; considered what securing points, friction pads and layering materials were required; and assessed whether vehicle modifications were required to carry the load. The company trained all of its loaders and supervisors as well as training the drivers who entered the depot to pick up loads in how the methods were to be applied.

The loading methods are periodically reviewed by the manufacturer to ensure that they remain the best and safest ways to restrain their products. A record of each certified method is maintained by the manufacturer as are training records and records of the results of each review of the loading methods.

## Roadworthiness/vehicle maintenance

There are two categories of roadworthiness standards which must be met by operators:

- First, the prescribed heavy vehicle standards
- Second, the other aspects of mechanical condition of a heavy vehicle that may impact upon the safe use of the vehicle on a road.

The first category is prescribed by section 60(1) of the Heavy Vehicle National Law (HVNL) Section 89 HVNL creates a general safety requirement that a person must not use, or permit to be used, on a road a heavy vehicle that is unsafe. Section 89 goes beyond mere compliance with the prescribed vehicle standards and imposes a broader duty on operators and drivers to ensure that their vehicle is safe for operation on a road. This ensures that even if the prescribed vehicle standards do not cover a particular situation the

obligation for safe operation is still met by operators.

Roadworthiness is not currently covered by the CoR provisions but Roads and Maritime targets roadworthiness breaches because unroadworthy/unsafe heavy vehicles pose an increased risk to the safety of other road users and are potentially more harmful to infrastructure and the environment.

The outcomes Roads and Maritime is seeking are that in addition to meeting the requirements of the prescribed heavy vehicle standards, all heavy vehicles on our roads comply with vehicle standards, are well maintained and are safe to operate.

### Case Study – vehicle maintenance compliance

A specialist dangerous goods transport business owns all of its own fleet. In almost all cases a single driver is allocated a truck and is the only person who drives it, this gives the driver an added incentive to ensure that the vehicle is well maintained, comfortable and safe to drive, and free of defects.

The fleet maintenance manager is a highly qualified and experienced heavy vehicle mechanic who has a high level of autonomy in making decisions about undertaking maintenance and repairs and has the authority to spend money for those purposes.

The company maintains a mechanical history file for each heavy vehicle so that the mechanics working on it (whether in-house or external) have the complete picture as to the vehicle and the work previously done on it. Each mechanic is supported by the company and is able to do additional skills training at the company's expense.

All work done on the vehicles is checked by a more senior mechanic to ensure that the job is done right. Where deficiencies are found these are corrected and the responsible mechanic is supported to understand what the problem is and what is required to address it.

The company has simplified the system for drivers and supervisors to raise a defect and every concern raised is documented and followed up to ensure the problem is understood and addressed. The Operations Manager and the Maintenance Manager are jointly responsible for ensuring every defect is satisfactorily addressed. Drivers are supported to raise safety and defect concerns and will not be despatched from the depot (or required to continue the journey if they have already departed) if there are outstanding concerns about the mechanical safety of the truck.

The company also has a spare parts policy that generally requires the use of OEM parts but recognises that other components may be better suited to particular travel conditions. Its procurement processes are designed so that staff have information to help them decide whether an OEM or after-market component is more suitable. Its procurement processes are designed so that staff have information to help them decide whether an OEM or after-market component is more suitable.

## More information

More information about the Chain of Responsibility is available from: [rms.nsw.gov.au/business-industry/heavy-vehicles/safety-compliance/chain-of-responsibility](https://rms.nsw.gov.au/business-industry/heavy-vehicles/safety-compliance/chain-of-responsibility)