

ADR COMPLIANCE SERVICES

CONSULTING ENGINEERS

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Comment on Heavy Vehicle National Law – Vehicle Standards

Issue: More clarity is required regarding obligations that arise from the Chain of Responsibility elements of the Act that relate to Vehicle Standards.

Section 26C of the act, requires all parties in the supply chain to ensure “as far as reasonable practicable”

- (1) the safety of the party’s transport activities; and
- (2) to eliminate public risks and to the extent this is not “reasonably practical” minimise public risks.

There is great confusion over the implications of this with respect to the standards which vehicles must comply.

Until the introduction of these provisions a vehicle was required to meet the AVSR’s which called up ADR’s that were in force at its date of manufacture and which applied to that ADR category of vehicle and in some cases it’s usage.

Now it would seem that in taking steps to eliminate public risks, an organisation involved in the transport chain may need to ensure that the vehicle used in a transport task is as safe as it can “reasonably practicably” be.

Does this mean that a consignor should insist that only vehicles fitted with all possible safety equipment be used in the transport of its freight, even if that equipment was not mandatory fitment when the vehicle was constructed or even if that equipment is not mandatory for new vehicles at the time of the consignment?

For example, should a consignor of freight, ensure that only heavy vehicles equipped with Autonomous Emergency Braking (even though this is not required by current heavy vehicle standards) be used to transport its Freight? Or is it sufficient to ensure the vehicles used are compliant with the vehicle standards that are relevant to that vehicle, given its date of manufacture?

Does the operator of a route service omnibus need to provide seatbelts, even though these are specifically not required by the ADR? It is clearly reasonably practical to purchase a bus fitted with seat belts or to retrofit seat belts.

Does a fleet operator need to consider the safety equipment supplied with a heavy vehicle before all other factors when deciding which new truck to purchase? Is it reasonable to purchase a Kenworth without stability control when a Scania could do the same job and features this safety technology?

The current provision is unclear, and is open to interpretation in a manner that potentially makes existing heavy vehicle standards redundant.

It is suggested that the obligations under the Chain of responsibility provisions be made explicit with respect to vehicle standards. The obligation should only be to take reasonably practicable steps to ensure that a vehicle used in the supply chain meets the standards with which it is otherwise required to comply.



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