



29 August 2019

Mr Peter Harris
Expert Panel Chair
Heavy Vehicle National Law Review
National Transport Commission
Level 3, 600 Bourke Street
Melbourne, VIC 3000

Dear Mr Harris,

The Australian Livestock Markets Association (**ALMA**) is the peak body for the saleyard and lairage industry, representing and promoting the interests of saleyard and lairage owners and operators at all levels of government and stakeholder engagement.

ALMA members provide livestock exchange (saleyard and lairage) infrastructure to around 1,200 stock and station agents and tens of thousands of livestock producers in NSW, Northern Territory, Queensland, South Australia, Victoria and Western Australia. Many of our members are local government entities, but ALMA also represents private operators both large and small.

ALMA welcomes the opportunity to provide feedback on the National Transport Commission's 'Vehicle standards and safety' issues paper. With respect of vehicle safety ALMA's comments focus on the loading manager definition and how this currently unfairly affects saleyard owners under the transport CoR.

Under the Heavy Vehicle National Law (HVNL) a loading manager is simply defined as someone managing or operating premises at which loading and unloading occur, whether that loading/unloading is conducted by them or someone else. As such, saleyard owners may fall within the current definition of loading manager as heavy vehicle movements occur at their premises, however, the definition of loading manager is not qualified by requiring that any such person actually be involved in the loading/unloading operation.

Other provisions within the HVNL suggest that loading managers should only be responsible where they are in fact managing or responsible for the loading or unloading of goods, rather than being responsible merely by virtue of the fact that they operate the premises at which goods are loaded and unloaded by someone else. However, given the broad definition of loading manager and that it is not expressly limited to persons who actually manage or are responsible for the loading or unloading of goods there is a lack of clarity and a gap within the law.

As background to ALMA's comments it is important that the steps involved in the livestock sale process within saleyards are clearly understood as to are where the saleyard owner is actually involved.

Saleyard owners merely provide a facility where livestock agents conduct the business of selling livestock on behalf of vendors and livestock transporters conduct the business of transporting livestock (defined as 'goods' under the current HVNL) on behalf of vendors and purchasers. Livestock transporters (some being classed as heavy vehicles) engaged by either agents or vendors deliver livestock to the saleyard, where they are auctioned. Buyers (and or their agents) then organise the transport of purchased livestock from the saleyard facility.

What is less understood, is that whilst saleyard owners typically maintain the premise infrastructure, they do not necessarily have any involvement in or control over the actual sale of livestock itself, nor their arrival or dispatch post sale by livestock transporters. Saleyard managers, typically engaged by saleyard owners have a primary role in animal welfare and facilities maintenance.

It seems absurd that saleyard owners are implicated in the transport chain of responsibility as ‘loading managers’ simply because they own and maintain saleyard infrastructure and regardless of the fact that they are not involved with the loading/unloading of transport of livestock transacted through the facilities that they own.

ALMA does however support the premise of a nationally consistent heavy vehicle law that ensures safe and efficient heavy vehicle movements in Australia but also strongly believes that regulatory activities should fall on those in the supply chain who actually conduct, control and/or are responsible for relevant transport activities.

To support this premise and provide the required clarity ALMA proposes an amendment to the definition of ‘loading manager’ (shown in red below) and preface this by stating that this amendment is not aimed at securing differential or preferential treatment for saleyard operators, as opposed to other parties in the CoR. The proposed amendment only seeks to make it clear that a person who merely operates premises, but who is not otherwise involved in any particular ‘transport activity’ that is conducted by other persons on those premises, is not responsible for such activities. That is a person is only subject to CoR obligations where they are actually involved in transport activities.

Section 5 – Definitions

“loading manager”, for goods in a heavy vehicle, means –

- (a) a person who manages, or is responsible for the operation of, activities carried out by a loader or unloader of goods at regular loading or unloading premises for heavy vehicles where the goods are --**
 - (i) loaded onto the heavy vehicle; or**
 - (ii) unloaded from the heavy vehicle; or**
- (b) a person who has been assigned by a person mentioned in paragraph (a) as responsible for supervising, managing or controlling, directly or indirectly, activities carried out by a loader or unloader of goods at regular loading or unloading premises for heavy vehicles**

This proposed amendment does not undermine the legislative intent and principles underpinning the HVNL.

This proposed amendment makes clear that a person who merely operates a premise, but who is not otherwise involved in any ‘transport activity’ being conducted is not subject to any CoR duties. This is consistent with the underlying CoR principle that parties are only responsible to the extent that they can control or influence the conduct of ‘transport activities’. Where a person merely operates premises on which other parties conduct such ‘transport activities’, it should be accepted that they are not in control and have no effective power to influence the conduct of those ‘transport activities’ that do not concern them.

This proposed amendment to the definition of ‘loading manager’ is very limited.

This proposed amendment adopts the wording used in a later HVNL subsection, and therefore does not introduce any new concept into the definition of ‘loading manager’.

This proposed amendment is consistent with and clarifies an ambiguity in the current CoR laws. For example, the definitions of ‘party in the chain of responsibility’ and ‘responsible person’ for a heavy vehicle refer to loading managers “for any goods in the vehicle” or “for goods in heavy vehicles for

road transport". These definitions, upon which offence provisions are based, make it clear that loading managers should only be responsible to the extent that they are the loading manager for particular goods. That is, they are only responsible where they are in fact involved or responsible to the extent that they are the loading manager for particular goods.

Adoption of this small proposed amendment is a simple action that should be undertaken to address the current gap and ambiguity with the HNVL.

Your sincerely,



Kate McGilvray
Executive Officer, Australian Livestock Markets Association