



Heavy Vehicle Compliance and Enforcement

*Regulating Heavy Vehicles for Safety and Efficiency
Australia as a Case Study
Paris, 24 September 2007*

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National Transport Commission

Traditional road transport regulation

- enforcement rather than compliance focused
- drivers and vehicle owners/operators are the sole targets
- role of other parties not addressed
- directors, secretaries and senior managers not personally accountable



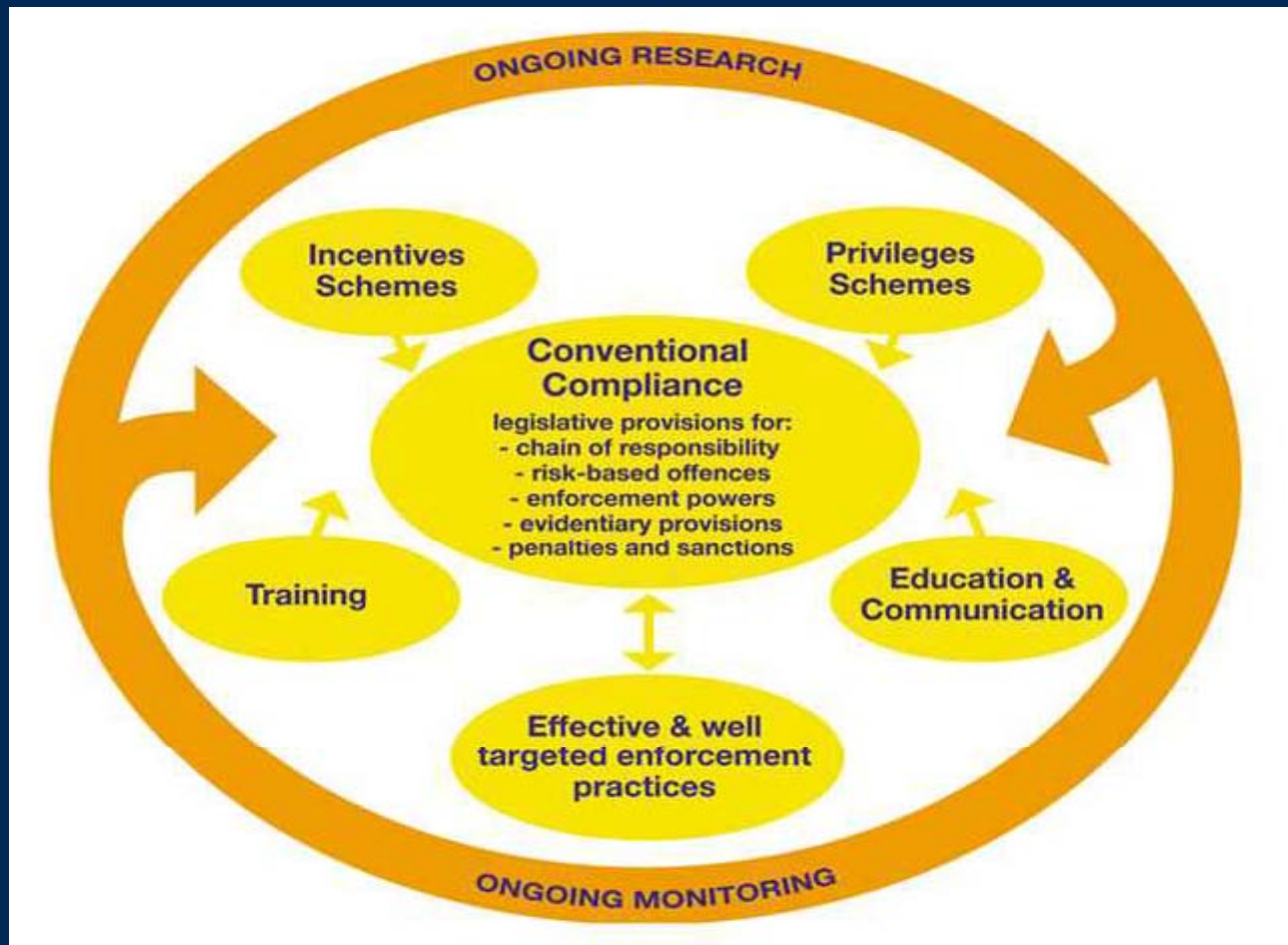
The problems with this ...

- not effective in producing long-term improvements in compliance
- no incentive for other responsible parties to prevent breaches
- unfair commercial advantage gained by all who cause or contribute to breaches
- company managers can hide behind the corporate veil

What influences heavy vehicle compliance?



National Compliance Programme



Giving the concept 'teeth'



Road Transport Reform (Compliance and Enforcement) Bill

Model provisions

Note: these provisions are intended to be adapted for use in each jurisdiction according to local requirements and local law.

A Bill for an Act to make provision for compliance with, and enforcement of, certain laws that form part of the system of nationally consistent road transport laws.

Enacting formula

Part 1 Preliminary

Division 1 Introductory

1 Short title and purpose

This Act may be cited as the *Road Transport Reform (Compliance and Enforcement) Act 2003*.

2 Commencement

Key elements of Bill

- chain of responsibility provisions
- risk-based categorisation of offences
- enforcement powers linked to risk
- evidentiary provisions to facilitate interstate and inter-agency investigations and proceedings
- hierarchy of penalties

What is the 'chain of responsibility'?

CONTROL =

RESPONSIBILITY =

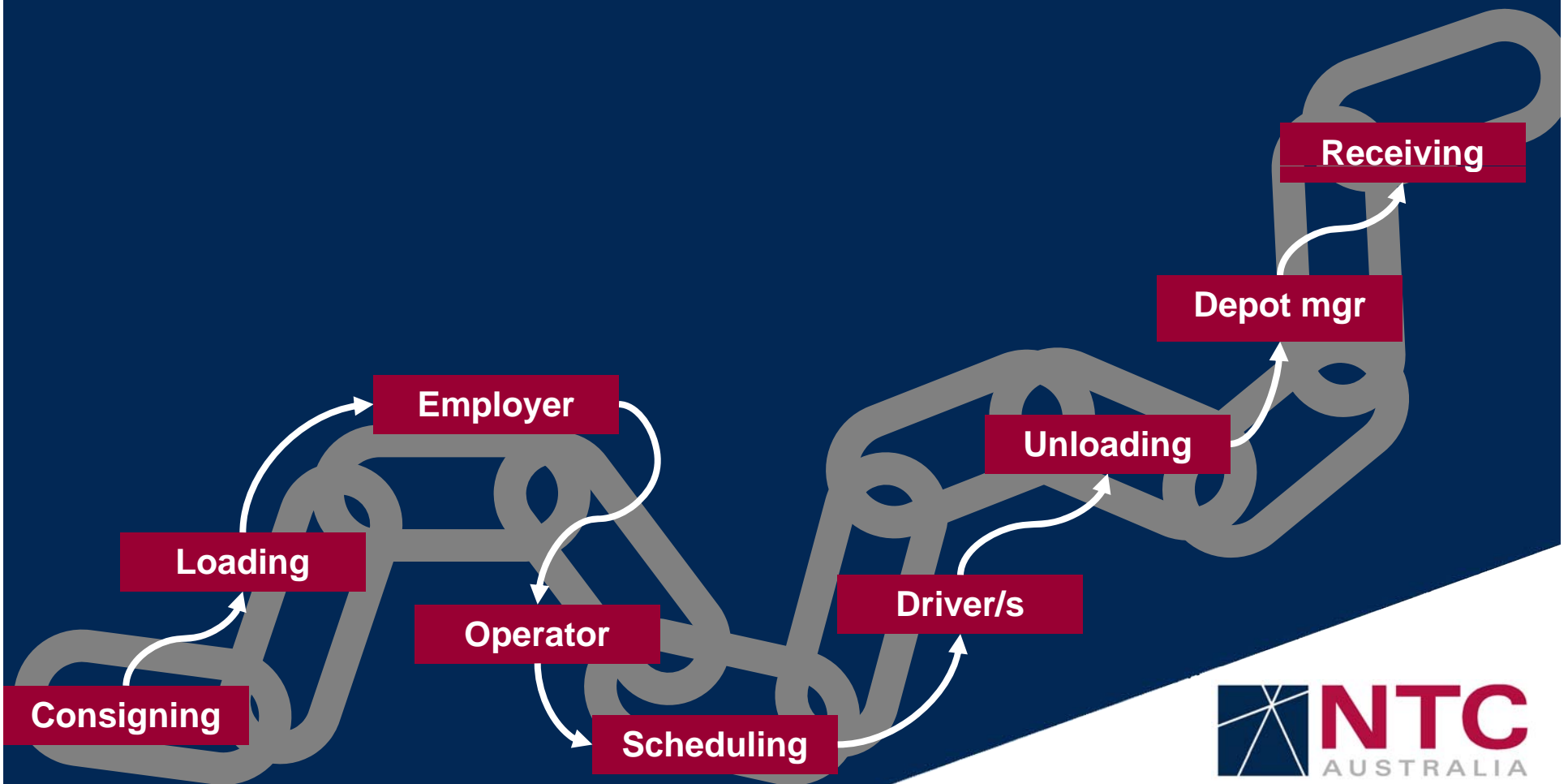
LEGAL LIABILITY

- responsibility may overlap
- liability for actions / inactions
- 'reasonable steps' defence

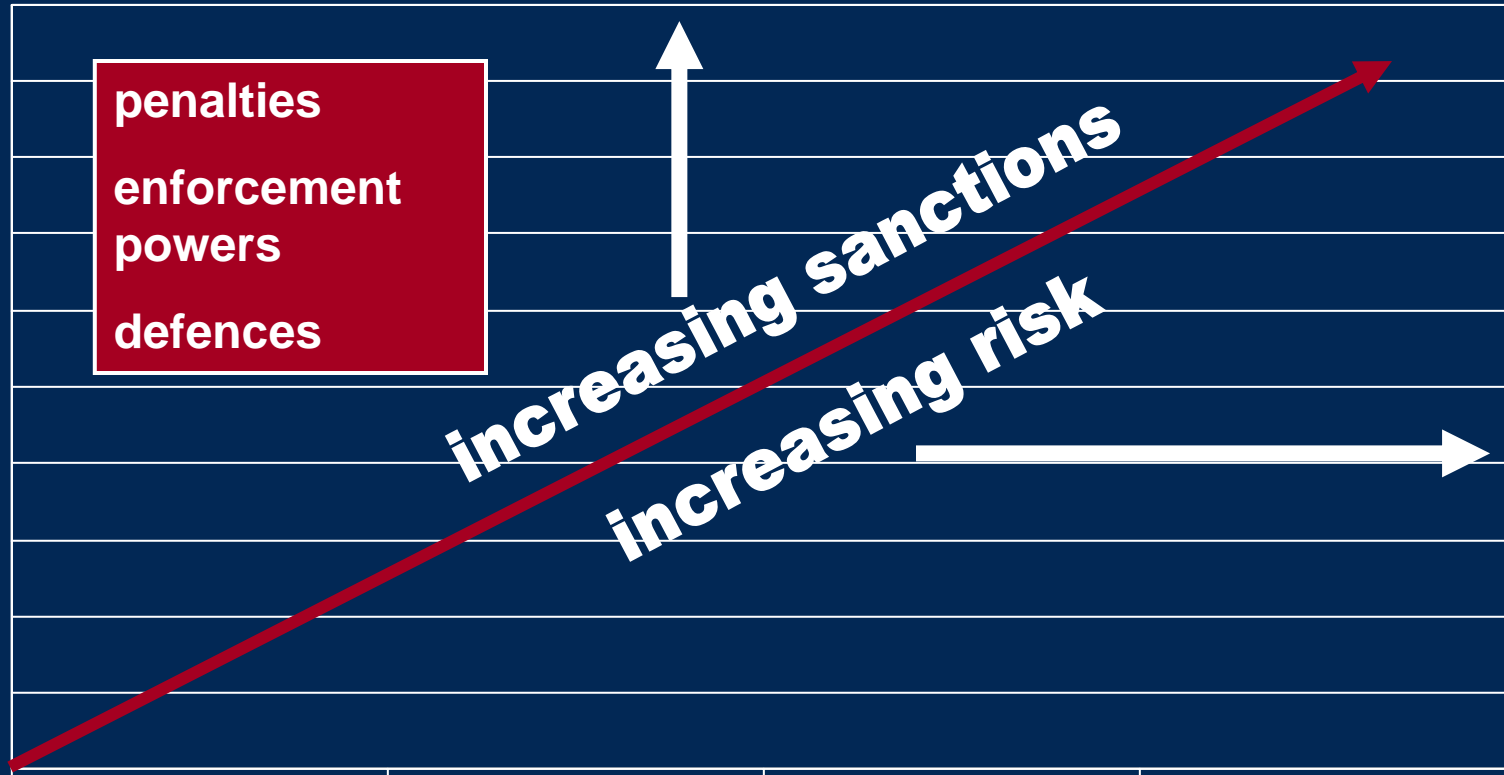
What is the 'reasonable steps' defence?

- did not know of breach
- could not be reasonably expected to have known
- took all reasonable steps to prevent breach
- 'industry code of practice' may assist to prove the defence

Fatigue management chain of responsibility



What is 'risk categorisation'?



Hierarchy of responsive penalties



Slide 13

ML8

sanctions

Matthew Loader, 13/07/2005

Strategic enforcement

- expanded investigative powers
- national guidelines for:
 - chain of responsibility investigations
 - applying the new enforcement tools
 - applying the new sanctions
- interstate recognition of evidence and offences
- interstate and inter-agency authorisation of officers
- Intelligent Access Bill
- national Heavy Vehicle Enforcement Strategy



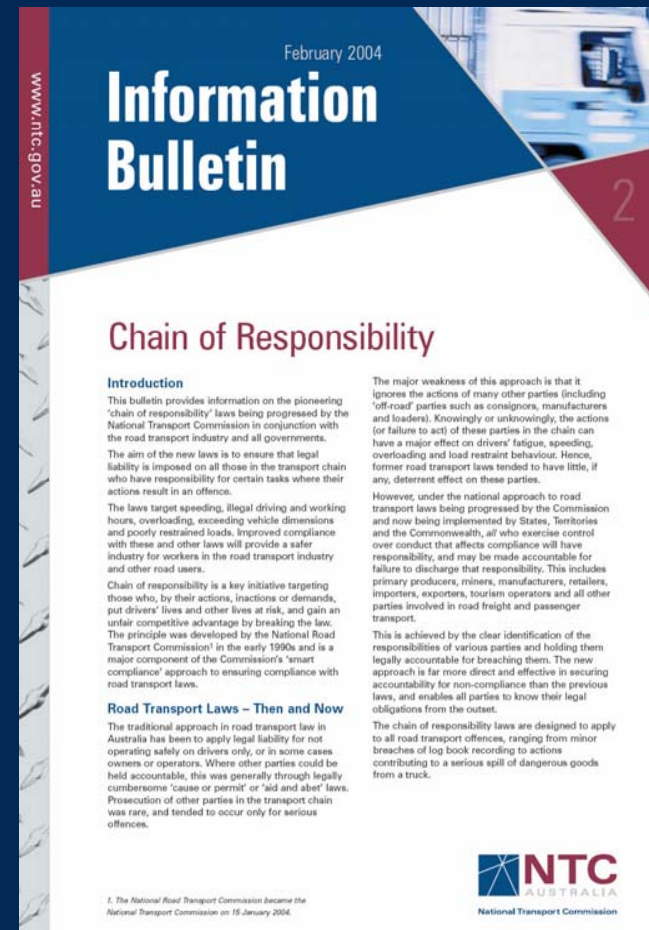
National enforcement officer competencies and training

- previously, no nationally consistent competency standards for enforcement personnel
- new nationally-endorsed competencies and qualifications for 'transport compliance officers'
- nationally consistent training materials



National communications

- national education and communications
- long-term strategy
- working with industry



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Developing the approach: problem identification

- Identifying problems through industry workshops and meetings since 1994
- Site visits and discussions with all parties in chain
- Involvement of key industry participants in policy and legislation development



Developing the approach – research and analysis

- analysing current models operating in Australia and overseas in road transport regulation and other areas of regulation (particularly OH&S and environment protection)
- consulting legal experts in areas such as criminology and regulatory theory
- tailoring effective models for application to the road transport regulatory context
- developing new approaches where existing models do not address the identified regulatory 'gaps'

Developing the approach: working together

- High level and broad-based Compliance Reference Group
- Two national conferences
- Legislation Advisory Panel
- National consultations and seminars
- Transport Agencies Chief Executives

Will it work?



- consensus of consultation
- commitment of Ministers
- commitment of transport and police agencies
- responsible businesses already taking steps, including developing industry compliance codes:
 - shipping containers
 - retailers
 - steel industry
 - automotive industry
 - gypsum industry
 - logging

Is it working?

- 'patchy' implementation
- reform cherry-picking undermines the realisation of anticipated benefits
- transport agencies are talking the talk, but finding it hard to change

'All politics is local. When leaders or ministers sign a global communique that implies some action, they will deliver only if it suits them domestically.'

Tim Colebatch 'The Age' November 21 20/06 ('Climate change may achieve what street protests could not)

But ...

- surveys indicate:
 - CoR as a concept is widely understood and accepted
 - there is a belief that CoR laws are in place throughout the country and are enforceable
- other key agencies are increasingly interested
- industry from all key sectors is leading the charge, communicating the concepts and making the changes
- NTC continues to build upon and reinforce these reforms, seeking leverage from local industry and COAG, and evidence of positive implementation outcomes



More information

www.ntc.gov.au



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