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September 14, 2018

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Re: Treasury Board Secretariat – Regulatory Modernization – Request for stakeholder comments – Canada Gazette, Part I, Volume 152, Number 30: Government Notices – July 28, 2018

Executive Summary

The Canadian Trucking Alliance (CTA) is a federation of the provincial trucking associations. With over 4,500-member carriers, CTA represents a broad cross-section of the industry – all sizes, regions, commodity-based services and specialties. Our members employ about 150,000 Canadians and are responsible for meeting about 70% of the country's road freight needs. CTA's operations are guided by its Board of Directors, made up principally of chief executive officers, presidents and senior executives of trucking companies. CTA represents the trucking industry's viewpoints on policy, regulatory and legislative issues along with conducting public relations activities.

The Treasury Board has asked the Canadian Trucking Alliance (CTA) and other stakeholders three important questions. In essence, it requested CTA identify government practices/regulations that impede growth and introduction of new technology in the trucking industry and what Ottawa could do to remove these barriers, including certain regulatory experimentation. CTA has prepared a broader document (attached) which identifies these impediments, impacts and potential regulatory solutions. Below are highlights of the larger report.

Truck Safety

A trucking company is either regulated by provincial or federal legislation. A federally-regulated carrier is one that crosses provincial or international borders. A provincially-regulated carrier's trucks do not leave the province they are registered in. Therefore, rules governing our sector such as safety, licensing, weights and dimensions, labour, environment, etc., can be developed either in Ottawa or independently by a provincial authority. Regardless of whose rules apply to a trucking company, enforcement of most of these federal or provincial rules has been deferred by the federal government to the provinces, which is the root source of our industry's regulatory frustrations.

The National Safety Code (NSC) has 16 standards dealing with all elements of truck safety. All NSC standards are developed through a cooperative process involving the federal government, the provinces and industry. Although the NSC is an excellent set of standards highlighting how to make the industry safer, unfortunately, very few of the policies are adopted in uniformity from coast-to-coast. The lack of harmonization is not a due to a shortage of commitment to truck safety by any level of government, but instead it's about the absence of ownership as no province is bound to the decisions made at the federal level within the NSC. The result is a myriad of provincial policies that could be either based or not reflective of the NSC.

The following are three examples of how this lack of ownership has led to inconsistent or delayed regulatory developments in the area of truck safety:

1. **Electronic Logging Devices (ELD) Regulation.** This regulation eliminates the use of archaic paper record keeping for tracking truck drivers' hours of service. This regulatory development, recognized as a critical step to improve commercial vehicle safety, began in the U.S. and Canada around the same time; but the US implemented its rule in December 2017 while Canada is still in the midst of the regulatory process. Although it may be overly simplistic to pinpoint this gap between the two countries, the fact the US has one federal authority that ultimately determines rules governing trucking fleets crossing state/international borders has undoubtedly helped speed up the introduction of this critical safety issue south of the border. CTA believes this regulation would already be in place in Canada if the federal government was similarly responsible for national implementation. CTA would like to see the publication of the final ELD rule by the end of 2018 and enforcement of the ELD rule in Canada by January 2020.
2. **Uniform & Focused Enforcement.** The vast majority of trucking fleets and drivers in Canada dutifully embrace a culture of safety and should not be typically targeted by roadside safety management systems. Instead, the focus should be aimed at the minority of the carrier community which has not fully committed to compliance. New

electronic technology allows roadside enforcement officers to pre-scan drivers and carriers in advance of arriving at a roadside scales, using data to determine which trucks/drivers need to be examined. Maximizing the expertise of limited enforcement resources on trucks/drivers who need it most is an excellent development for industry, governments and the motoring public. Why is this technology not deployed and utilized consistently from coast-to-coast? Clearly, there's a significant role for the federal government in this area, including the development of a national truck safety database and the deployment of an information based/electronic roadside enforcement program that focuses attention on known non-compliant carriers.

3. **Mandatory Entry Level Training for Commercial Truck Drivers (MELT).** Ontario is currently the only province to have such a program. Even if the federal government called on all provinces to adopt a uniform MELT program for federally-regulated drivers, it doesn't appear it could enforce such a requirement nationally without the cooperation of the provinces. (In the U.S., federally-regulated licence requirements are introduced and adopted by the states).

With the history of federal-provincial relations and associated impediments in mind, CTA would welcome a conversation with the government of Canada on how the NSC could, at least theoretically, be developed on a national basis and eventually deployed and enforced consistently under the oversight of a federal entity.

Other areas under the topic included in the full CTA report include (a) Advanced Driver Assistance Systems (b) truck weights and dimensions. A more detailed report on the NSC and MELT are also included.

Labour Force

Immigration, Training & Driver Shortage

The Canadian Trucking Alliance (CTA) does not agree that the truck driver occupation is "unskilled" for immigration purposes and has been working with the federal government to reclassify the occupation of truck driver as skilled. Currently, our industry is facing a significant and severe shortage of qualified truck drivers. The situation is at the edge of crisis as supply chain customers are faced with unavailability of trucking capacity. The current immigration system is impeding the trucking industry's ability to service the Canadian and international economy by not allowing companies to recruit drivers from around the world who are already experienced and working in the industry. Addressing this will safeguard our economic growth and help diversify our country and our workplace. CTA strongly recommends the Government of Canada look at ways to allow more professional truck drivers from around the world to become Canadians. CTA has included more detailed recommendations on changes to the temporary foreign worker program in the broader report attached.

Additionally, many trucking fleets would welcome the federal training/apprenticeship opportunities afforded other sectors to bring young, transitional or unemployed Canadians to their companies. Again, due mainly to truck drivers' immigration status as unskilled, many of our member carriers have little to no support from the federal government to help attract and train Canadians to the profession. The Government of Canada needs to develop new guidelines on how sectors are funded for training and development. The Government of Canada must recognize that without more funding for training and a modern approach to the immigration qualification system, freight will not be able to move efficiently across Canada, negatively impacting the economy.

Taxation

Classification of Drivers for Tax Purposes

Like many other sectors in the economy, the trucking industry has a diverse labour force that relies on both employees and contractors, particularly for the occupation of commercial drivers. Consequently, more trucking companies are incorporating truck drivers and then employing them to drive company vehicles with no financial obligation to operate or maintain the equipment. This practice has significant tax implications; and if not properly identified and enforced will hamper the competitiveness, labour, and recruitment practices in our industry. The Canada Revenue Agency (CRA) and Employment Skills Development Canada (ESDC) must develop a consistent and clear policy on this emerging practice of self-incorporation without the cost of ownership and operating obligations. Failure to modernize policy and enforcement will leave our sector in a difficult position of not having proper guidance on tax compliance while leaving open the opportunity for some companies and drivers to avoid paying their fair share of taxes, which help support federal government programs. CTA believes that drivers/fleets using this incorporation system are failing to comply with proper tax filing rules, which is costing the Canadian tax system close to a \$1 billion. Clarity and strong enforcement are necessary, as is a policy requiring the mandatory issuance of T4A's or a related new form, for all truck drivers declaring themselves to be contractors.

From a level playing field perspective, the recent corporate tax changes in the US (lowered to 21% from 35% effective January 1, 2018) have reignited the necessity in Canada to address accelerated Capital Cost Allowance (CCA) rates for trucking equipment. Previously, the differences in the Canadian and US corporate tax rates (Canadian being more favourable) used to offset the need to address accelerated CCA rates in Canada. Now it's an advantage for the US as they have both a lower tax rate and can depreciate equipment in a much shorter timeframe. This frees up money for US fleets to invest in new equipment (tractor-trailers) and technologies that benefit safety and the environment.

Other taxation issues covered in the CTA document look at how the Treasury Board could address competitiveness in the trucking industry by reinstalling excise tax rebates for diesel fuel used to operate environmental equipment and dedicating an excise tax program to support more truck parking and rest area locations across the national highway system.

Environment

The federal government introduced a series of regulations since 2000 to control emissions from heavy trucks like air pollutants and greenhouse gas emissions. Trucks remains the only freight mode in Canada regulated for both air pollutants and GHGs. We are proud of this achievement, but this environmental benefit has come with significant increases in the purchase price of vehicles and associated operating and maintenance costs. To overcome some of these costs, a minority of fleets across Canada have removed environmental equipment from trucks to increase reliability and reduce operating expenses. The reality is, that unlike in the United States where the Environmental Protection Agency can legally act against maintenance shops that perform these services, sellers of environmental delete equipment, and owners of trucks who directly tamper with equipment, Environment Canada has no authority in these matters. This is compounded by the fact provinces have either taken little action on this issue or lack the regulations to combat tampering or selling devices to defeat environmental systems in heavy trucks. The federal government needs the power to enforce emission control tampering. Additionally, the broader report includes recommendations on how the Treasury Board can address glider kits and de-carbonization equipment policies.

Border Systems Infrastructure

The border is the cash checkout line for the Canadian economy. Monies allocated to programs ensuring cross-border freight is safe, secure and arrives at its ultimate destination in a reliable and efficient manner is a wise investment that supports the trade community and larger economy. Building and improving upon cross-border road infrastructure is a big part of this investment strategy. The Government of Canada has shown great leadership in this area, in particular with its recent announcement to fully fund the Gordie Howe Bridge at the Windsor-Detroit gateway. Beyond the physical infrastructure, however, we must look at investing in hardware and software to maintain and advance commercial border trade processes.

Sincerely,



Stephen Laskowski
President

Attachment (1)



Canadian Trucking Alliance (CTA)



Canadian Trucking Alliance

Submission to Lindsay Wild
Director, Regulatory Reviews
Regulatory Affairs Sector

Treasury Board of Canada Secretariat

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In response to Canada Gazette, Part I, Volume 152, Number 30:
GOVERNMENT NOTICES – July 28, 2018
TREASURY BOARD SECRETARIAT
Regulatory modernization – Request for stakeholder comments

Submitted September 14, 2018



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Canadian Trucking alliance (CTA)

The Canadian Trucking Alliance (CTA) is a federation of provincial trucking associations. With over 4,500-member carriers, CTA represents a broad cross-section of the industry – all sizes, regions, commodity-based service and specialty. Our members employ approximately 150,000 Canadians and are responsible for meeting about 70% of the country's road freight needs. CTA's operations are guided by its Board of Directors, made up principally of chief executive officers, presidents and senior executives of trucking companies. CTA represents the trucking industry's viewpoints on policy, regulatory and legislative issues along with conducting public relations activities.

About the Industry

Trucking is the dominant mode of freight transportation in Canada, moving about 90% of all consumer products & foodstuffs and almost two-thirds (by value) of Canada's trade with the United States. Nearly 1% of the Canadian population and over 1.5% of the labour force are truck drivers by profession. Our economy is multi-faceted, ranging from farming and natural resource-based to manufacturing and knowledge-based businesses – all of which depend on the movement of freight in some way. The industry generates over \$65 billion in revenues per year, with the for-hire sector accounting for over \$40 billion of that total. In terms of GDP, the transportation services sector represents 4.2% of total economic output. Of that, trucking accounts for a greater total share than air, rail and marine combined. The trucking industry is responsible for creating over 400,000 direct jobs in Canada – over 300,000 of which are truck drivers. The for-hire segment of the industry produces over \$24 billion in personal income on an annual basis, which in turn generates \$4.2 billion in personal income taxes and \$4.1 billion in indirect taxes for government.

Trucking Moves the Canadian Economy

Trucking is a derived demand industry. As the economy goes, so goes trucking. As such, trucking is a good leading indicator of economic activity. The simple reason trucking is the dominant mode of freight transportation is the flexible, timely, door-to-door service that only trucks can provide. Trucking works with all the other modes, but its major market is the time-sensitive delivery of small shipments of lighter-weight, high value-added products over relatively short distances. The just-in-time inventory system, which remains a key to Canada's international competitiveness, is built around the truck. Other modes – like rail and marine – dominate in the movement of heavier, bulkier commodities that are generally less time sensitive over longer distances. Overall, the three modes would overlap or compete on a very small proportion of the freight market – certainly less than 5 per cent.

Issues at a Glance

Labour

Temporary Foreign Worker Program (TFWP)

With chronic labour shortages in our industry, regulatory changes could be made to the TFWP to better allow access to the program.

Mandatory Entry Level Training (MELT)

Needed to ensure drivers are properly trained before entering the industry and to raise the professional profile of truck drivers so access to immigration channels can be attained to support the growing need for truck drivers.

Safety

Hours of Service (HOS)

Regulatory work needs to be completed on a new electronic logging device (ELD) mandate and implemented as soon as possible. Strong regulatory coordination and harmonization is needed between the federal government and the provinces.

National Safety Code & Motor Vehicle Transport Act

Consistency in the development and application of the National Safety Code (NSC) in all jurisdictions is critical and a strengthening of the Motor Vehicle Transport Act (MVTA) and federal oversight of the provinces needs to be addressed.

Finance

Driver Inc.

A new tax evasion scheme that allows non-compliant carriers and drivers to evade their tax and labour code responsibilities. This issue is centered on tax fairness and competitive issues and requires regulatory clarity and enforcement.

Excise Tax Rebates

A regulatory change that was made in Budget 2016 which has negatively affected the industry's ability to comply with new GHG rules.

Accelerated CCA Rates

Better rates in the US, coupled with new lower corporate tax rates under President Trump are severely hurting Canadian carriers' ability to compete.

Carbon Pricing and Backstop Jurisdictions

The federal government needs to ensure that the registration process with the CRA and any responsibilities that flow through are easily understood and administered by the industry.

Environment

Diesel Emissions Tampering

The practice of physically or electronically removing built-in technology that reduces smog and other illness-causing emissions carries few, if any, consequences. The Canadian Environmental Protection Act provides few regulatory options to combat this practice.

Glider Kits

Clarification is required on what is allowed and action should be taken in the interim to prohibit older engine technology from being installed in new vehicles and operated in Canadian jurisdictions.

De-Carbonization of Trucking

The reduction of greenhouse gases from heavy trucks makes environmental and business sense for trucking fleets – less fuel burned in trucks equates to fewer carbon emissions and less operating expenses for fleet operators. CTA has maintained the position that mandating accepted, market-tested technologies that will achieve these two objectives is a goal for the industry.

Technology and Infrastructure

Investment in Border IT Infrastructure

With e-commerce growing exponentially each year, the hardware that supports this electronic system requires major upgrades to meet the demands of today's cross-border trade.

Advanced Driver Assistance Systems (ADAS)

Regulatory development is necessary to determine which technologies are best suited for the trucking industry and have the most positive impact. Drivers will always be part of the equation when it comes to trucks, so the focus needs to be on adopting ADAS technologies to support drivers while also making roads safer.

Excise Tax Dedication to Truck Parking

In order to support economic growth, access to communities for trucks is essential and further federal investment needs to be directed towards easing the truck parking shortage.

Equipment

Truck Weights and Dimensions

The federal-provincial-territorial Memorandum of Understanding on heavy truck interprovincial weights and dimensions regulations is a critical mechanism to the success of the trucking industry and its support of the supply chain in Canada. Timely adoptions of amendments by jurisdictions is essential. Exploring further amendments to the MoU based on new technologies must continue as an evergreen exercise.

Labour

Issue: Chronic Labour Shortages and the TFWP

Unlike other industries like manufacturing, truck driving is an occupation that cannot be offshored or shipped overseas. We must ensure we are doing all we can to support new Canadians and match them with employment opportunities in our most in-demand industries. According to transportation consulting firm CPCS, the gap between the demand and the supply of truck drivers in the Canadian for-hire trucking industry could reach as high as 48,000 drivers by 2024 – which equates to 17% supply deficit. The driver shortage is felt most acutely in the long-distance/cross-border truckload sector of the business, but all sectors of the industry are impacted.

Impact: While our projections look out to 2024, there is no doubt the driver shortage is here today. With the industry already short thousands of drivers from coast to coast, it is only a matter of time before the shortage begins to impact the wider economy as shippers continue to struggle to secure transportation services. Being without drivers for trucks becomes a financial balancing act for trucking companies. Unseated trucks that sit idle still accumulate financing or lease charges that can range up to \$3000 per month and the revenue loss/growth opportunity for the average long-haul truck can range to \$1000 per day.

Solution: Following a sector review report conducted by Trucking HR Canada, in partnership with the Temporary Foreign Workers Program (TFWP), CTA proposes key changes to the TFWP for the trucking sector. Among the chief recommendations is the establishment of a trusted-employer/fast-track process for employers that meet top industry criteria. For this, we recognize the need for vetting of employers during the initial application to ensure legitimate companies are using the TFWP as it's intended. However, the vetting data could then form an employer profile that serves as proof of trusted employer status, fast-tracking subsequent LMIA applications and requests for work permit renewals. We believe this will speed up the processing times and support those employers who have good intentions in accessing the program. With the shortage of truck drivers reaching a crisis point, it is essential the TFWP is operating as efficiently as possible as it will be increasingly utilized by industry in the coming years.

Issue: Mandatory Entry Level Training (MELT)

Operating a tractor-trailer safely and successfully requires critical skills and knowledge. The Mandatory Entry Level Training (MELT) concept provides drivers with balanced in-class, in-yard and on-road training required to adequately prepare them to pass the commercial driver's road test. Having properly trained drivers entering the workforce sustains economic development and industry growth as the supply of truck drivers is key to moving the goods that support the economy. Regimented training also brings with it a level of professionalism that is required to be a safe and successful truck driver.

Impact: Consistent outcomes of MELT across Canadian jurisdictions is critical due to the large volume of inter-provincial traffic. Raising the bar on professionalism will continue to impact the supply of truck drivers and improve access to immigration programs. To date, only Ontario has adopted MELT. Alberta, Saskatchewan and Manitoba are progressing towards MELT.

Solution: All provinces and territories need to adopt MELT. While jurisdictions are working towards implementing MELT, the national safety code standards for licencing, training and evaluation need to be updated to include MELT and provide a suitable framework for the provinces and territories to follow. CTA also believes that driver training across all jurisdictions should include issues pertaining to distracted driving. The MELT concept builds on work done by Trucking Human Resources Canada on development of the National Occupational Standard for truck drivers.


Safety

Issue: Hours of Service Regulations

Transport Canada estimates that 5 to 10% percent of truck drivers routinely exceed hours of service limits. CTA believes HOS compliance is critical to highway safety and a level playing field for trucking companies in the supply chain. Unfortunately, until electronic logging devices (ELDs) come into full effect across Canada, some carriers who still use outdated paper logbooks allowed under the current regulations can continue to falsify them – or in some cases, duplicate or have them go missing altogether – making it difficult, and sometimes nearly impossible, for roadside inspectors to detect non-compliance.

Impact: The Canadian HOS regulations, rewritten in 2005 and based on extensive fatigue science, restrict hours of work and provide adequate time for daily and weekly rest. While the vast majority of carriers and drivers abide by the hours of service rules, Transport Canada estimates that 5 to 10% percent of truck drivers routinely exceed hours of service limits. By exceeding hours of service limits, these drivers and carriers are providing additional services to the supply chain that does not take into full account the cost of compliance and can therefore distort the cost of the services they offer the supply chain.

Approximately 25% of the Canadian HOS convictions captured for the ELD Regulatory Impact Analysis statement are for exceeding the maximum hours prescribed by the rules; while another 11% are convictions for operating two daily logs at the same time or for falsifying the information



in the daily log. Approximately 48% of the HOS convictions are for failing to maintain or failing to produce a daily log, which is widely recognized by law enforcement as a strong indicator the driver may have been breaking the rules or planned to do so in the future. According to the American Transportation Research Institutes 2018 Report on Predicting Truck Crash Involvement, truck drivers with an hours of service violation are 50% more likely to be involved in a collision – as are 45% of drivers with false logbooks or no logbook – than those drivers who comply with the regulations. Average costs associated with collisions can be broken down as follows (US dollars) – property damage \$20, 917, injury \$270,222 and fatal \$4,988,379.

Solution: CTA believes Transport Canada’s intentions to implement ELDs (which CTA fully supports and has been advocating for since the mid 2000’s) will reduce fatigue and distraction-related crashes while also harmonizing with U.S. requirements (ELDs took effect there in Dec. 2017), leveling the playing field for law-abiding carriers, and also improving quality of life for drivers by increasing opportunity for recuperative rest and eliminating supply chain pressure to circumvent hours of service rules.

CTA implores the federal government and its provincial counterparts not to delay implementation of an ELD rule. Three work streams are underway by Transport Canada and the Canadian Council of Transport Administrators to address comments to the Gazette I notice (issued December 16, 2017), that will require minor language changes in the regulations, finalizing the technical standard for ELDs, and the adoption of a 3rd party certification system for ELDs to ensure the devices comply with the regulations. As regulatory testing is not required, CTA is urging Transport Canada and all provinces to complete this work as soon as possible and have an ELD rule in place by January 1, 2020 for both inter and intra provincial trucking operations. By doing this, fair competition based on service can be restored with economic growth throughout the supply chain based on solid a foundation of regulatory compliance.

Issue: Motor Vehicle Transport Act and Driver/Carrier Oversight

The motor vehicle transport act (MVTA) requires provinces / territories to monitor the activities of their domiciled trucking companies in Canada. Those jurisdictions are also responsible for administering sanctions against those carriers based on their safety performance record from across Canada.

The National Safety Code Standards for trucking company oversight were developed by the Canadian Council of Motor Transport Administrators to assist in the designing of safety regimes with a level of consistency across all jurisdictions.

The NSC standards are merely guidance documents for how a jurisdiction should set up its commercial driver and carrier oversight regime. Jurisdictions are not obligated to follow them and, in fact, many jurisdictions deviate from the standards dealing with carrier profiles, safety rating and facility audit.

Impact: By forcing jurisdictions to follow MVTA but providing no obligation for them to follow the NSC standards leads to a host of inconsistencies from jurisdiction to jurisdiction.

Examples include:

- The NSC standard states that events accrued to a carrier's profile should remain on the record for two years, so a two-year compliance window can be monitored. Many jurisdictions have reduced that window to a year, but not all have. The challenge is to determine whether the deviations have an actual impact on safety (something CTA has asked CCMTA to address).
- From a level playing field perspective carriers based in one jurisdiction where there are significant deviations from the standard or where oversight/enforcement is less stringent have an advantage over those in jurisdictions with more rigid regimes.
- The MVTA requires monitoring of all trucking companies operating in their jurisdiction. Without enforcement of the MVTA or accountability, only two of the 13 jurisdictions monitor US carriers. This gives US companies complete immunity from any sanctions or penalties based on their safety performance.
- From a business standpoint, carriers with good safety records have access to certain programs that other carriers do not. If safety record determination is less stringent in one jurisdiction vs. another it can have an impact on getting access to certain programs.

Solution: The immediate solution is to determine if the carrier monitoring systems as they currently exist are able to properly monitor and rate trucking companies. Once the results are available, then a determination can be made whether changes within the national safety code are necessary or whether it would make more sense to develop one national system as in the United States.

In addition, an incentive must be provided to the jurisdictions to adhere by the MVTA and that accountability to the NSC is required.

Regulatory Experimentation: Outside of Ontario and Quebec, jurisdictions do not monitor or rate the activities of US carriers operating in Canada. This acceptably impacts competitiveness. Ontario has offered to assist those jurisdictions in monitoring US carriers and has a system robust enough to do so. Further discussions with Ontario are warranted to initiate this effort.

Finance

Issue: Driver Inc.

Known as 'Driver Inc', a number of drivers and carriers are entering into agreements incorporating themselves. It's important to note these drivers are not traditional independent contractors (known as owner-operators) as they do not own, lease or operate a vehicle. Instead they drive the carrier's vehicles and are virtually indistinguishable from an 'employee'. This is a competitiveness issue that hampers law-abiding companies from growing their own business opportunities.

If the Driver Inc. issue is not addressed now, CTA believes this will be the predominant practice in our industry within two years. Even carriers who currently oppose the Driver Inc. model will soon be forced into adopting it to remain competitive.


Impact: We know many of the companies and drivers involved in this scheme are knowingly avoiding their tax responsibilities, including paying the appropriate source deductions (CPP, EI, etc.). From the driver's perspective, many are trying to unjustly benefit from small business tax advantages. We also know many carriers who are employing the Driver Inc model are avoiding paying their workers' compensation premiums and skirting their responsibilities under the Canada Labour Code. Considering trucking is the second largest federally-regulated employment sector, only after the federal government itself, there is no doubt the government should be concerned with the potential enormity of this issue. In total, depending on the driver's income, these payments from both the employee and employer represents between \$12,000 and \$15,000 per driver. To reach \$75 million per year, we conservatively estimate it would take only 5000 misclassified drivers (less than 2% of the total driver population). If just 25% of the total driver population participated in the Driver Inc model, it would result in at least \$1.12 billion in tax and other revenue leakages for the government. Companies participating in this activity are unfairly able to use those tax avoidance savings to pay more for drivers and attract them away from legitimate operations. By the same token, they are also able to manipulate costing models offered to the supply chain to obtain more business for themselves.

Solution: If continued unchecked, CTA expects the entire industry will rapidly move to this model given the competitive savings. In response, CTA suggests Employment and Social Development Canada (ESDC) and the Canada Revenue Agency (CRA) make a concerted and coordinated effort to step up enforcement and ensure carriers and drivers are adhering to their responsibilities under the labour and tax codes.

Issue: Excise Tax Rebate

In the 2016 federal budget, the government removed trucking companies' ability to apply for federal excise tax refunds on diesel fuel used for anti-idling devices such as auxiliary power units (APUs) that heat/cool truck cabs, refrigerated units and fuel used in other GHG reducing technology.

Impact: Not only do these technologies greatly assist our industry in meeting mandated emission reduction targets, but they are also vital to the operation of our businesses and the customers we serve, particularly in the agriculture, food and pharmaceutical sectors. This change is also inconsistent with the government's historic policy of not taxing home heating fuel. By improving fuel economy, the industry shields itself from increasing fuel costs while lowering GHG emissions for societal benefits.



Solution: The trucking industry remains firmly committed to reducing its carbon footprint, but the federal government needs to help carriers understand how they're supposed to reach these goals while also removing barriers that discourage carriers from investing in greener technology. CTA is seeking a reversal of this policy to support the trucking industry as it prepares for Phase II GHG regulations.

Relatedly, CTA requested that government explain how the trucking industry is to manage and administer its responsibilities under the carbon pricing regime in any so-called 'backstop jurisdiction'. The industry wishes to avoid a patchwork system that is administratively burdensome on industry. The trucking industry needs further guidance on this issue.

Issue: Accelerated CCA Rates

The Capital Cost Allowance (CCA) claim for a class of depreciable property is based on a prescribed rate that is generally based on the useful life of the property. Class 43.1 and 43.2 of the Income Tax Act provide a higher CCA rate than would otherwise be available as an incentive to encourage businesses to invest in specified clean, energy-efficient equipment. This is a competitive issue between US and Canadian finance regulations and discourages economic growth in the Canadian trucking industry that competes North-American wide. Many US fleets already enjoy natural advantages related to economies of scale. Canadian companies need support to compete.

Impact: US depreciation rates are far more advantageous by allowing US carriers to write down trucks in half the time. The accelerated rate in the US allows companies to free up capital to invest back into the company. This tax advantage (known as bonus depreciation) for US trucking companies over their Canadian counterparts has been further widened by the recent corporate tax reductions introduced by President Trump and eliminates the historic Canadian advantage in this area. The US corporate tax rate dropped to 21% from 35% effective January 1, 2018. Canada must address this growing tax inequity between Canadian and US fleets.

Solution: CTA recommends the government provide an accelerated CCA rate for carbon-reducing trucking equipment as identified by Environment and Climate Change Canada's Phase I and II heavy truck regulations – including truck tractors and trailers. Should Class 43.1 not be seen as a viable option, CTA would encourage the federal government to explore other avenues within the tax code. Aside from the environmental reasons for this tax change, the Canadian trucking industry is falling further behind our US competition in our ability to invest in new equipment and explore modern technologies.

Issue: Carbon Pricing and Backstop Jurisdictions

Diesel fuel is either the first or second leading operating cost for a trucking company. Reducing fuel use, therefore, is not only beneficial for the environment, it's also how trucking companies can be more competitive. Consequently, CTA is not inherently opposed to a carbon pricing regime that is based on certain principles. These include:

- It is revenue neutral, with revenues raised being reinvested back into industry to accelerate investment and industry adoption of environmental solutions.
- The system is easily understood and transparent.
- It is coordinated on a national and international (Canada-US) basis to avoid competitive disparities.
- It is easy and efficient to administer.
- Ensures equity between the freight carrying modes.

Based on these principles, CTA voiced concerns in response to the proposed federal carbon pricing strategy's technical paper. A year later, uncertainty persists as the federal government has not expressively engaged CTA to ensure the industry understands the system being imposed.

Impact: While carbon pricing directly and indirectly affect the trucking industry, two key impacts include (1) added costs for fuel and (2) the potential for administrative burden.

Cost: While the industry is not homogeneous in its fuel usage and purchasing patterns, as a baseline, a \$0.13 – 0.14 / litre (\$50/ tonne) increase in diesel fuel would equate to over \$10,000 a year in added costs, per truck, for a carrier operating the bulk of its miles in Canada. For a medium-sized fleet of 100 trucks, this would be approximately \$1 million in added cost per year. While many of the provincial carbon pricing systems returns some of the generated revenue back to industry in some way, this is not uniform across the country and some programs will inevitably be more useful to some carriers than others.

Administrative Burden: In the case of backstop jurisdictions, the industry also has strong concerns over how the administrative system will work. Commercial carriers (that transport passengers, freight or both) that operate in or through a backstop jurisdiction will be required to register with the CRA as Registered Fuel Users. Depending on how this system operates in practice – including the registration and filing process – this could result in a considerable administrative burden. Relatedly, from a competitive perspective, other than a reference, there have very few details on how registration requirements will be enforced on US based competitors that operate into Canada. The uncertainty caused by the lack of communication on these key points continues to cause concern and apprehension on the part of the Canadian trucking industry.

Solution: The federal government needs to ensure the registration process with the CRA and any responsibilities that flow through are easily understood and administered by the industry. To begin, this means the federal government will need to develop educational materials and will need to consult with industry. Given the nature of the trucking industry, with tens of thousands of trucking companies operating coast-to-coast, if any true backstop jurisdictions come to exist, the federal government has an obligation to ensure the industry fully understands its responsibilities under their system. Furthermore, the industry also expects the federal government will outline detailed plans on how they will handle US carriers that are required to register and the enforcement measures which will ensure all are playing on a level field.

Regulatory Experimentation: Additionally, many inter-provincial and international trucking companies utilize the International Fuel Tax Agreement (IFTA), a compact of US States and provinces to fairly and easily administer the payment of fuel taxes. CTA suggests this system should be explored to support the administration of the federal registration system and operations in a backstop jurisdiction. In either case, the industry should be consulted how the administrative process can be made easy and efficient for carriers to use.

Environment


Issue: Diesel Emissions Tampering

Since 2002, diesel emissions standards for heavy commercial vehicles have progressively eliminated nitrous oxides (NOx) and particulate matter (PM). This was the right decision for federal government as the rule purged these smog- and illness-causing pollutants from the heavy truck sector. CTA is supportive of these efforts; however, non-compliance with the regulations in the form of emissions tampering by drivers, fleets and garages who offer delete services impacts economic development and the competitiveness of compliant operators in the trucking industry.

Methods involved in circumventing the rules can be very rudimentary (physical removal of emission-control componentry or devices as well as technically sophisticated re-programming of engine computers to reconfigure fuel mixtures or to trick sensors into thinking the engine has been cleaned of NOx and PM).

Impact: This practice continuously damages the environment while giving those who use these delete kits an unfair competitive advantage over compliant operators, who must pay more for fuel and maintenance on their vehicles. Meanwhile, by defeating emissions control systems, non-compliant operators are able to reduce their maintenance and fuel costs by 10-40% with few, if any, legal consequences. This also leads to severe market distortions in how costs are passed along to the supply chain and, eventually, Canadian consumers.

Solution: To effectively eliminate illness-causing emissions from heavy-duty diesel engines, enforcement of federally-regulated emissions standards needs to be a shared responsibility between the federal government and provinces. At the provincial level, governments need to effectively contest drivers, companies and facilities that disconnect or delete federally-mandated emissions controls on heavy-duty diesel engines, as well as drivers and carriers from the U.S.



who operate vehicles in Canada without emissions controls. CTA recommends a four-pronged approach that includes roadside checks; facility reviews of companies whose trucks are found out of compliance; enhancements in the annual safety inspection requirements regarding emissions for heavy trucks; and a campaign to identify and shut down facilities that offer and profit from the deletion of emission control systems.

At the federal level, enhancements to the Canadian Environmental Protection Act (CEPA), proposed by the Minister in a report to the House of Commons, provide Environment and Climate Change Canada more power to conduct emission tests on suspected vehicles, remove non-compliant vehicles from operation and importation into Canada and make it illegal for garages to offer emission delete services. Decisions on these recommendations, which would supersede provincial regulations, has been pushed off until after the next federal election.


Regulatory Experimentation: As part of the roadside checks identified in CTA's four-pronged approach, enforcement officials from provincial transportation and environmental agencies should be afforded the legal opportunity to use engine diagnostics technologies provided by heavy truck manufacturers to determine emissions compliance during roadside inspections. While CEPA amendments are being considered, ECCC should also be allowed to collect information on facilities offering and profiting from the deletion of emission control systems and share that information with provincial and territorial officials.

Issue: Glider Kits

Transport Canada interprets the industry term "glider kit" as an assemblage of parts (kit) that would constitute a truck, minus the power train (engine, transmission and drive axle(s)). They were traditionally meant for assembling a new truck using the aforementioned critical components salvaged from a crash or removed due to modifications to the existing tractor/frame. However, clarity of the rules is needed as there appear to be loopholes which allow these tractors to be used in contravention of the spirit of the emission regulations. Consequently, glider kits have become more popular since the advent of emission controls on diesel engines in the early 2000s since they effectively use older generation engines to power newer vehicles.

There's also some confusion over government authority on glider kits (i.e Transport Canada vs. Environment Canada) and whether those authorities/regulations are consistent between jurisdictions.

Impact: By using older engines in new vehicles, operators achieve better fuel economy and reduced maintenance costs while emitting up to 40 times the smog-causing pollution, compared to new, complete vehicles. The upfront purchase price of gliders is also approximately 30% less than the cost of a new vehicle, allowing operators a cost input benefit at the expense of the environment while also distorting market costs in providing services to the supply chain.



Solution: ECCC indicated their intent to close the loopholes on glider kits when their Phase II GHG emission regulation goes into effect. However, these changes are not scheduled to take effect until 2021. Clarification is required in the interim on exactly what is allowed and action to prohibit older engine technology being installed in new vehicles and operated in Canadian jurisdictions.

Issue: Decarbonization of Trucking

CTA has been supportive overall of ECCC's Phase I Heavy Truck Greenhouse Gas regulation and the current Phase II proposal. CTA has maintained that mandating accepted, market-tested technologies that reduce harmful carbon emissions while increasing operational efficiencies for fleets makes sense. What's not practical, however, is mandating certain technologies or fuels that are not market-tested or compatible for specific Canadian operating environments. With so many viable options available, the reduction of carbon emissions should not be complicated by imposing certain fuels or technologies that lead to unnecessary challenges for motor carriers.

The trucking industry is not a monolithic entity. There are short-haul and long-haul companies, the latter consuming the bulk of the fuel. Although low carbon technologies like natural gas and electric engines have less operational, infrastructure and supply chain impact on short-haul trucking, government must also be aware that significant impediments for long-haul fleets using these technologies continue to persist.

Impact: As the federal government continues to explore legislation around mandating the use of low carbon fuels – such as carbon pricing and the Clean Fuel Standard – CTA would like to reiterate that readily available fuel technology and infrastructure has not kept pace with the trucking industry's desire to reduce its carbon footprint.

Risk is the primary obstacle for fleets looking to reduce their carbon footprint. The trucking industry is a highly competitive sector and companies cannot afford to make a mistake investing in their prime revenue generator – their trucks. These risks, along with lack of infrastructure, operational challenges, and the absence of incentives for buyers, make companies less likely to adopt certain low carbon fuel technology.

Solution: From a regulatory perspective, the government would be well served to encourage provinces to provide weight allowances for natural gas trucks, which are heavier and thereby limit carriers' ability to haul certain products for customers. A tank weight allowance of 1500 kgs, like the one in British Columbia for natural gas heavy-duty trucks, would help expand adoption of natural gas vehicles.

To encourage investments in technologies such as electric and natural gas trucks, aerodynamic devices, wide single tires and other technologies, governments must de-risk these investments with incentives while expanding natural gas and electric vehicle infrastructure and fueling stations.

Technology and Infrastructure

Issue: Investment in Border IT Infrastructure

Last year our members experienced serious issues with the processing and release of cross-border goods as a result of technical issues and outages related to the Canada Border Services Agency's IT system. With e-commerce growing exponentially each year, the hardware that supports this electronic system requires major upgrades to meet the demands of today's cross-border trade and to eventually automate paper processing. These issues have created supply chain inefficiencies that also limit the industry's ability to take advantage of modernized programs and pilots, which can potentially save the supply chain valuable time and money. Modern, secure and efficient IT systems is imperative for our country to maintain its global competitiveness.

Impact: System crashes can slow border trade down to a trickle, costing Canadian businesses millions of dollars in lost productivity. While CBSA staff have done their best to continue facilitating trade during these occasions, without the portal/EDI systems they are given an impossible task.

Through a survey, CTA members estimated CBSA systems had experienced outages or significant delays nearly 30 times over 30 separate days during the spring last year, for a total of at least 80 hours of downtime. With approximately 915 trucks crossing into Canada per hour, the projected cost to industry can be about \$302,000/h or upwards of \$100,000,000 a year in driver wait time, overtime, bond costs, etc. These costs do not include damage the supply chain, the ability to meet service standards, and the aggravation of truck drivers and trade chain partners involved with the movement of cross-border goods.

In addition, paper-based processing should also be obsolete because it is administratively burdensome, inefficient, and a waste of limited resources for both industry and government. There is little reason to require paper processing with wireless technology so easily accessible and cost effective.

Solution: This issue can be resolved by investing capital in the CBSA IT systems and additional staffing, which can work to move goods across the border more quickly when electronic systems fail. We realize the funding required to upgrade these outdated systems is significant. However, such an investment is dwarfed by the immediate and long-term damage the economy will suffer when outages occur or when paper processes are not automated.

Issue: Advanced Driver Assistance Systems

The foundation of autonomous vehicles is based on Advanced Driver Assistance Systems (ADAS), which can include such things as forward collision warning, automatic emergency braking, lane departure warning and pedestrian/cyclist detection. These systems are designed to complement the driver's existing skill sets and responsibilities when operating a truck.

Media hype of driver less trucks on our highways in the next few years is far from reality. Rather than replace professional truck drivers, ADAS systems will enhance a driver's professional abilities. While drivers will always play a vital role in freight transportation, it would be helpful if the regulatory environment could keep pace by increasing the mandatory use of proven safety technologies. Anything done to stimulate market penetration of these systems will undoubtedly improve road safety. It's also important we identify which technologies are suitable for Canadian operating conditions and proven to function as designed on Canadian highways and weather.

Impact: The current regulatory environment does not prohibit the use of these technologies, but without mandates, the full safety benefits to truck drivers and the traveling public are not being realized. As an example, preliminary data and analysis from manufacturers and carriers indicates certain ADAS systems can potentially reduce rear-end collisions 87%, specifically, and as high as 95%-reduction in the severity of all crashes.

Solution: Conduct research and testing to determine which systems can be used most effectively in Canadian environments and move forward with regulatory developments to adopt these technologies on new vehicles and on existing vehicles where feasible. Technologies that address distracted driving in a non-intrusive (sensors vs. driver facing cameras) as well as systems that will assist with pedestrian and cyclist detection also need to be included in the work plan going forward.

Issue: Dedication of Excise Tax Revenues to Truck Parking

Access to truck parking and rest areas in Canada so that commercial drivers can take mandatory rest when on the road has been a longstanding issue. In order to support economic growth, truck access to communities is essential and further federal investment needs to be directed towards assisting in easing the truck parking shortage. Currently, excise tax collected on diesel fuel (estimated at close to \$1 billion annually) from the commercial transport sector is not funneled to a dedicated infrastructure fund for reinvestment.

Impact: Lifestyle of over-the-road truck drivers is one of the major factors in the critical driver shortage. Drivers are required to adhere to hours of service limits requiring them to stop and rest for specified periods each day, but there are limited places to stop safely and legally. These competing forces further detract from the attractiveness of the occupation. Because the hours-of-service limits are based on fatigue science, the importance of rest is critical to highway safety. In its Gazette I notice on electronic logging devices, Transport Canada recognized the internationally accepted fact that about 15-20% of truck-involved collisions can be attributed to some type of fatigue. The average cost for truck collisions according to the American Transportation Research Institute indicates the following (figures in US dollars): property damage only \$20,917, personal injury \$270,222 and fatal \$4,988,379.

Solution: Transport Canada and Revenue Canada should work together to dedicate excise tax collected on diesel toward a sustained effort to address the truck parking shortage. Consultation with the provinces and territories is critical to determine the locations on the national highway network where there is an acute shortage of truck parking. With \$1 billion available annually, it would not take long for this initiative to have a meaningful impact on truck parking capacity. Adequate parking and providing the basic necessities for truck drivers who keep the economy

going will pay off in the long run in the form of industry growth by improving the recruitment and retention levels of drivers into the industry.

Equipment

Issue: National Memorandum of Understanding on Weights and Dimensions

In February 1988, the Council of Ministers Responsible for Transportation and Highway Safety endorsed a Memorandum of Understanding (MoU) designed to improve uniformity in regulations covering weights and dimensions of four types of commercial vehicles operating between provinces and territories on a nationwide highway system. Under the MoU, each of the provinces and territories will permit vehicles which comply with the appropriate weights and dimensions described in the MoU to travel on a designated system of highways in their jurisdiction.

Jurisdictions continue to retain authority to allow more liberal weights and dimensions, or different types of vehicle configurations, for trucking operations within their jurisdiction. In addition, for trucking operations which take place between adjacent jurisdictions with compatible weight and dimension regulations which are more liberal than those specified in this document (e.g. Ontario-Quebec-Atlantic Canada), the local regulations will prevail.

Since the original agreement was established, nine amendments have been prepared and endorsed by the Council of Ministers, the most recent in 2016. Industry has supported and been the primary proponent of these amendments; however further work is required to enhance the effectiveness of the MoU in keeping pace with modern trucking technology and the timeliness in which jurisdictions adopt changes once the MoU is signed.

Further enhancements that can be made immediately to the MoU include revisions to the wide single tire provisions. Amendments that can be considered in the future based on emerging technology include: smart lift axles on trailers and increasing weight per tire for steering axles. These are further elaborated on under Regulatory Experimentation.

The timeliness of adopting agreed changes to the MoU in jurisdictions is also critical. Once these changes are made, it should be a priority for jurisdictions to implement them before additional work on the MoU.

Addressing technologies will have an impact on economic development, competitiveness and growth. Changes that have not been implemented in a timely manner also create competitiveness issues.

Impact:

MoU Amendment #9 – September 2016

By not implementing MoU amendments #9 in a timely manner, fleets that operate inter jurisdictionally are discouraged from investing in equipment that is both environmentally-friendly and provides improved sleeper berth configurations for reducing driver fatigue and improving driver lifestyle. While some jurisdictions have made the changes in their regulations, others have not. This impacts a carrier's ability to utilize equipment it has invested and attract drivers in an increasingly competitive job market.

Wide-based single tires


Wide-based single tires cannot exceed 7700 kgs per axle in the MoU (US equivalent weights). Dual tires are allowed 8500 kgs per axle for tandem and tridem axle groups in the MoU (most common axle groups suitable for single tires). Trucks operating dual tires can maximize their payload and operate productively. Trucks with wide single tires cannot maximize their efficiencies in support of the Canadian supply chain.

Many Canadian jurisdictions have adopted more liberal weight laws for wide single tires than the MoU. Some of the jurisdictions allow wide single tires in regulation (MB, ON, PQ) while the remaining allow the use of the tires by permit. Not having consistency in the MoU that allows wide single tires to operate at MoU weights in the same manner as dual tires creates roadblocks for the adoption of this technology. Wide single tires can reduce GHG emissions for each MoU vehicles by close to 5%.

From a competitive standpoint, Canadian fleets that operate domestically are often required to maximize their payloads – they can only do this with dual tires, but at the expense of the GHG benefits associated with wide single tires. Depending on the sector of the industry, such as bulk transport operating at maximum payloads is critical to the success of the trucking businesses so every extra kilogram of payload is important. US fleets are not able to operate domestically in Canada but compete with Canadian fleets in international lanes. The US fleet can install wide single tires on all of their equipment and take advantage of the GHG benefits and also receive the reduced weight benefits of wide single tires, while the Canadian fleets to remain competitive in both Canada and the US need to maintain dual tires.

Solution: The council of ministers approved amendment #9 in September of 2016. Jurisdictions need to adopt the recommendations and allow these vehicles to travel throughout all jurisdictions.

The Premiers have announced their intention to have their respective governments address the issue of wide-single tires. A plan to operationalize the inclusion of wide single tires in the MoU has been presented to the Task Force on Vehicle Weights and Dimensions by CTA. This plan respects the weight law limits in the MoU, provides flexibility for jurisdictions that have more liberal weight laws than the MoU and respects pavement damage considerations and designated highway networks.



Regulatory Experimentation: For emerging technologies where an MoU jurisdiction has developed sound policy, the Task Force on Weights and Dimensions should start to develop a work plan to address the technology for future inclusion in the MoU. Examples include: smart lift axles and increased steering axle weights.

For emerging technologies that are yet to be considered for inclusion in the MoU, but could provide enhancement to the dynamic and productive performance of MoU vehicles, while maintaining the general principles of the MoU, the Task Force on Weights and Dimensions should seek input on those technologies from industry and develop a work plan to review their potential impact on MoU vehicles. Examples include: the effect of electronic stability control, the impact of 6x2 drive axle technologies, the potential for auxiliary powered axles on trailers, the lowering of the centre of gravity of vehicles, inclusion of weight allowances for auxiliary power units (for hotel services) to all MoU vehicles, how to determine impact/benefits/limitations of including electric and hydrogen fuel cell vehicles in the MoU.

Once the above processes begin to produce information/data/recommendations, we will have a better sense of the potential impacts for economic development, competitiveness and growth.

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