
From: Haydon Bawden [REDACTED]
Sent: Wednesday, 18 November 2020 1:48 AM
To: Exemptions
Cc: Castor Audit & Advisory
Subject: CPB Contractors – N10000537 – Submission

Dear Mr Lee

I write to you in response to the ACCC's request for a submission in relation to a proposal by CPB Contractors to insert an annual audit requirement into its pre-tender documents and subcontracting agreements.

The Heavy Vehicle National Law (HVNL) establishes a national scheme for facilitating and regulating the use of heavy vehicles on roads in a way that promotes public and workplace safety, and encourages and promotes productive, efficient, innovative and safe business practices. The HVNL achieves these objects by placing upon all parties with control or influence over heavy vehicle activities a duty to ensure, so far as is reasonably practicable, the safety of the party's transport activities relating to the vehicle.

Relevantly, section 26A of the HVNL provides, 'The safety of transport activities relating to a heavy vehicle is the shared responsibility of each party in the chain of responsibility for the vehicle. The level and nature of a party's responsibility for a transport activity depends on... the party's capacity to control, eliminate or minimise the risk'.

Through its procurement processes, CPB Contractors exerts considerable influence over its subcontractors. It therefore has the capacity (and responsibility) to control, eliminate or minimise risks associated with those subcontractors' transport activities. A practicable means of doing so is to require subcontractors to demonstrate they have safe systems of work in place. Self-declaration is unreliable and susceptible to fraud. Requiring assessment by any auditor is similarly unreliable, principally because the auditing profession is not regulated.

It is our view that auditors should be assessed for their knowledge of the HVNL and heavy vehicle safety systems before their assessment is relied upon. This is not a novel concept. Many existing legislative schemes require auditors to be assessed and approved before providing assurance in relation to a particular scheme. For example, the National Heavy Vehicle Accreditation Scheme (NHVAS) requires that auditors be registered or recognised by the National Heavy Vehicle Regulator as an NHVAS approved auditor before conducting audits for the purpose of that scheme.

We consider that CPB Contractors' proposed preferred auditor condition is a reasonable and practicable measure to ensure the safety of transport activities over which it has considerable influence. Given that the list of preferred auditors is not exhaustive or limited, we do not believe that it would have the effect of limiting competition in our profession.

If you require any further information, please feel free to contact me directly.

Kind regards

Haydon Bawden
CEO | Lead Auditor | WHS Systems Specialist



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