



Owner-Operator's Business
Association of Canada
Association professionnelle des
routiers autonomes du Canada

**COMMENTS OF THE
OWNER-OPERATOR'S BUSINESS ASSOCIATION OF CANADA**

**IN RESPONSE TO THE MINISTRY OF TRANSPORTATION REQUEST
FOR COMMENTS ON THE ONTARIO TRUCKING ASSOCIATION PROPOSAL
TO MANDATE SPEED-LIMITERS FOR HEAVY TRUCKS**

"In 2003, Ontario had the safest roads in North America . . ."

Harinder S. Takhar, Ontario Minister of Transportation
From *Ontario Road Safety Annual Report 2003*

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I. Introduction.

The Ontario Trucking Association (OTA) has asked the Ministry of Transportation of Ontario (MTO) to amend existing laws to make activation of speed-limiters mandatory on commercial vehicles manufactured after 1995 with a GVW >11,000 kg. OTA would “hard code” the limiters to restrict these vehicles to a maximum speed of 105 km/h (65 mph). The speed restriction would apply to trucks that operate into, out of, and within Ontario. This would include all trucks, regardless of how infrequently they operate in Ontario, even those that are registered and travel in other jurisdictions where the maximum speed limits are higher. OTA’s ultimate goal is broader agreements that impose similar requirements throughout Canada and eventually the U.S.

The Owner-Operator’s Business Association of Canada (OBAC) hereby submits its comments in opposition to the proposal. These comments not only point out the severe negative safety impact of the OTA proposal and the inappropriateness of government intervention in the business and operating decisions of private companies, but also outline a variety of other more effective measures for reducing speeding and for achieving fuel conservation and controlling fuel costs, two alleged goals of the OTA.

II. Background.

OBAC is a not-for-profit trade association incorporated under the Canada Corporations Act, Part II with its principle place of business located at 275 Slater Street,

Suite 900, Ottawa, Ontario, K1P 5H9. OBAC is the only national trade association representing the interests of independent owner-operators and professional truck drivers on all issues that affect small business truckers. OBAC actively promotes the views of small business truckers before a broad variety of fora, including federal and provincial government departments and agencies, other trade associations, and private industry, in an ongoing effort to obtain equitable and safe working conditions for commercial truck drivers. OBAC also provides a range of products, services, tools, and information to help professional drivers conduct their businesses more efficiently and safely.

It must be emphasized at the outset that OBAC absolutely does not condone speeding or other unsafe driving habits. On the contrary, OBAC urges truck drivers to adhere to all federal, provincial, and state regulations as a matter of course, not only for safety purposes, but also as good business practices, and to promote understanding and goodwill with the general motoring public with whom they share the road.¹ OBAC also supports the ongoing "Run Compliant" safety initiative of the U.S.-based Owner-Operator Independent Drivers Association (OOIDA) that actively promotes adherence to all laws, speed limits, and safety regulations, including running strictly at the posted speed limits.²

¹ See various articles and editorials under "The Director's Chair" on OBAC's website <www.obac.ca> and regular columns in *Truck News* magazine.

² Many Canadian drivers and owner-operators, especially those who operate internationally, are members of both OBAC and OOIDA.

Acknowledging the key role education and training play in improving road safety, OBAC supported, endorsed, and is actively promoting a recently announced voluntary apprenticeship program for entry-level drivers in Ontario.

OBAC is also a strong advocate of a number of initiatives for achieving fuel conservation and controlling fuel costs. It participated in the development of a business skills training course for owner-operators, published by the Canadian Trucking Human Resources Council (CTHRC), and actively promotes the program which stresses "best practices" for owner-operators, including effective speed management as a means of lowering operating costs through decreased fuel consumption.

OBAC also endorses the use of auxiliary power units (APU) and cab-heater systems as a means of minimizing idling and reducing operating costs. OBAC is actively engaged in promoting FleetSmart's (Natural Resources Canada) Idle-Free Quiet Zone campaign and its rebate program for devices to reduce engine idling in the on-road commercial transportation sector. OBAC has recently partnered with a major North American distributor of such products and will offer members preferential pricing as a means of better managing escalating fuel costs.

OBAC also promotes and distributes a fuel saving and safe driving program, SmartDriver for Highway Trucking, created under the FleetSmart initiative. This program stresses speed management and operational discipline as a means of lower operating costs and increasing safety for all road users.

III. Why is OTA pursuing a legislated solution to a business problem?

OBAC agrees with OTA that speeding is a legitimate concern for the MTO. But OTA is focusing on the wrong group if it truly wants to reduce speeding. OTA's own

proposal reveals that speeding by commercial truck drivers is not the real problem. In the Introduction to its *Comprehensive Policy on Truck Speed Limitation*, OTA acknowledges that “trucks are less likely to be speeding on the major highways, and the number of trucks speeding excessively is a small minority” (OTA Policy, 1). In discussing speeding trucks, OTA reiterates that “trucks are the least likely vehicles to be speeding on Ontario highways. In fact, the safety performance of trucks and truck drivers is superior to that of cars and motorists” (OTA Policy, FAQs, 6). OTA correctly identifies “the worst speeders” as “the four-wheelers,” noting that “most truck drivers are already driving at a maximum speed close to 105 kph” (OTA Policy, FAQs, 7).

A recent comprehensive study on speeding presented to Natural Resources Canada and Transport Canada confirms OTA’s observations regarding who speeds on Canadian roads (Tardif, *Speeding*). As found in this report (4, 11, 15), for all vehicle types, average speeds are consistently above posted speed limits. However, when heavy-duty trucks do speed, they just as consistently exhibit lower average speeds and less extreme speeding than light vehicles. The result, in accidents involving heavy-duty trucks, is that speeding by the other driver is a much more frequent causative factor than speeding by the truck driver (Tardif, 6). Data compiled in 1999 by the U.S. Federal Highway Administration’s (FHWA) Office of Motor Carrier Research and Standards showed that approximately 7 percent of such crashes involved speeding by the truck driver, while 15 percent involved speeding by the other driver (Tardif, 6, 29). Data compiled by Transport Canada on fatal crashes show similar results – 5.5 percent involved speeding by truck drivers, while 13.3 percent involved speeding by the other driver (Tardif, pp. 6, 29).

Since it is undisputed that light vehicle drivers are the primary speeders on Canada's highways, it is simply not logical to require speed-limiters for truckers who are less likely to speed and create related safety hazards, as a means of solving the problem of excessive speeding. Nor does it make sense to unduly burden the vast majority of truck drivers, who have been found to travel the speed limit in most cases, to deal with the isolated violators. The unfounded public perception that motorists are often passed by trucks (Johnson, 96, 125) is not a sufficient basis for shifting the focus of government regulation away from the group causing the problem.

The question that must therefore be asked is why OTA is pursuing mandatory speed-limiters on commercial trucks. OTA claims that its proposal addresses four areas of concern. In brief, OTA contends that lower speeds will:

- result in fuel conservation and reduced fuel costs, with a corresponding reduction in greenhouse gas emissions;
- reduce normal wear and tear on trucks and related operational costs;
- change the public's perception about the presence of speeding trucks on the highway, and reduce the risk and severity of truck accidents; and
- eliminate allegedly "unfair competition" from those drivers who speed, restricting competition to "service and price."

The first two points are indeed concerns for the trucking industry, but are clearly business and operational matters in which government has no role. Reducing the risk and severity of truck accidents is a goal industry shares with governments, but there is no evidence to suggest that government-mandated speed-limiters would help achieve

this goal. Likewise, whatever perceptions or fears the general motoring public may have about speeding trucks would be better dealt with by education and than by legislation.³

OBAC believes that OTA's true underlying motivation lies in point number four. That being said, it is doubtful whether the ability to travel slightly faster, a behavior exhibited by only a small group of truck drivers, actually creates any demonstrable competitive advantage for the carriers that employ those drivers. As OTA points out in its proposal, the time savings from the higher speeds are "marginal and manageable" (OTA Policy, FAQs, 7). For example, OTA estimates that increased trip times for trucks traveling 105 km/h instead of 110 km/h would range from 10 minutes (Toronto to Windsor) to two hours (Toronto to Vancouver). OBAC questions the competitive advantage this would give the faster moving trucks.

Although commercial vehicles are under economic pressure to move goods quickly and thus possibly speed, there are significant economic incentives *not* to speed: fuel usage and engine maintenance requirements are lower; multiple citations for speeding offences are costly and lead to driver demerit points and CVOR points applied against the carrier (Tardif, 11).

³ With respect to public perception, since the late 1990s, there has been a growing perception by Canadian car drivers that the roads have become more congested with trucks. In fact, between 2000 and 2003, the number of trucks actually decreased by 0.2%, while the number of cars grew by 5.5%. Trucks are more 'visible' on the road not just because they are bigger, but because they travel longer distances than cars, increasing the likelihood of encountering them on the road. Since cars and trucks share the road at the same time and day of week, a car driver is likely to see more trucks than cars on weekdays, at night, and at border crossings, contributing to perceptions about the volume of truck traffic (Baldwin).

OBAC suggests that OTA is seeking a solution not to a speeding problem, but to a recruiting problem. OTA President David Bradley is on record as saying that some of his carrier members find themselves at a competitive disadvantage from a recruiting standpoint where drivers have a choice of driving governed trucks or not. To solve this perceived problem, Bradley argues that “all players in the industry should be competing, pricing their service, establishing delivery schedules and meeting customer demands on a level playing field where everyone is playing by the rules and without pressure to operate beyond the rules” (OTA Press Release, July 5, 2005). Instead of exploring and implementing a number of good business practices and incentives that could help beleaguered carriers alleviate this problem, OTA seeks a government mandate to create and maintain such a purportedly level competitive situation.⁴ In any case, it is not the proper role of MTO to “level the playing field” in a segment of the transportation industry. Canada, like the U.S., has a free-market economy.

IV. Slow-moving trucks can have a negative influence on traffic safety, and that is precisely the outcome of measures advocated by OTA in its proposal.

OBAC agrees with OTA that speeding is a legitimate concern: it is illegal and dangerous, and can contribute to the severity of accidents. However, highway safety engineers have long recognized that highways are safest when all vehicles are traveling at the same speed – regardless of the speed limit. This is clearly evidenced by the well-documented fact that accident rates are lower on interstate highways than on other

⁴ Ironically, in its “level playing field” argument, OTA fails to suggest how the significant economic advantages enjoyed by its large carrier members, such as volume discounts on fuel, tires, and trucks, could be shared with smaller carriers and owner-operators to create a truly equitable business environment for small business truckers who make up the vast majority of the Canadian trucking industry.

roads because of access control, wider lanes, shoulders, and the steady movement of traffic (Siggerud, GAO, 11-12; Cirillo). Indeed, notwithstanding higher speeds, the interstate highway system experiences accidents and fatality rates 2-5 times less than the primary road system it replaced (Cirillo).

The critical fact totally ignored by OTA is that reduced speeds promote safety only if *all vehicles* are moving at reduced speeds (Johnson, 52; Cirillo). It is well established that deviations from the mean speed of traffic, in the negative as well as the positive direction, contribute significantly to accidents (Johnson, 52-53, 125; Tardif, 11; Cirillo). The simple explanation for what might at first glance seem to be a surprising result is that speed differentials have a greater causative impact on accidents than speed itself (Randal, 2-4).

Indeed, a study by the U.S. Department of Transportation on truck size and weight found that when two vehicles traveling in the same direction were moving at speeds that varied by 10 mph, they were nearly four times more likely to collide than they would be if traveling at the same speed (Lankard, AAA). It has also been found that every one km/h increase in speed differential causes 270 more casualties (Johnson, 22; Liu).

Forcing heavy-duty trucks to drive slower than the flow of traffic, while other vehicles on the road continue to speed, sometimes excessively, will lead to frequent lane changes, passing, and weaving maneuvers, as well as tailgating by faster-moving vehicles. Indeed, interactions with vehicles going 10 mph less than traffic are increased by 227 percent (Johnson, 98, 127). Such conduct increases the probability of rear-end and side-swipe incidents. While slowing trucks down may, as OTA suggests, reduce the

number of trucks rear-ending cars, it will likely increase the number of faster-moving cars rear-ending trucks. Statistics produced by the U.S. National Highway Traffic Safety Administration in 2004 show that trucks are struck from the rear 3.2 times more often than other vehicles; a greater speed disparity will lead to even more of this type of collision.

Changes away from differential speed limits in some U.S. states have allowed comparisons of the impact of such speed limits on safety. A synopsis of related literature on this topic prepared by the FHWA Office of Highway Safety concluded that “the best available literature suggests safety is best served if all vehicles in the traffic stream travel at about the same speed” (Tardif, 50).

The speed differential created when trucks move slower than the flow of traffic will also create bottlenecks, with open road in front of slow-moving trucks and congestion behind, at least until other faster-moving vehicles pass or weave around them. When slow trucks form a line in the right lane, the likelihood of collisions as faster-moving cars attempt to merge onto or exit the controlled access highways is also increased.

Congestion will be especially exacerbated on two-lane roads where passing slow trucks is not an option. An increasingly common upshot of congestion is road rage, including aggressive driving behaviors such as tailgating, failing to yield, weaving in and out of traffic, and passing on the right, which sometimes escalates to violence. Increasing the numbers of slower-moving trucks on the roads can only worsen the problem.

Aside from the difficulties created by the interaction of fast- and slow-moving vehicles, there is evidence that suggests the drivers of speed-limited vehicles behave differently than drivers of non-speed-limited vehicles. A study performed by Leeds University in Great Britain found that drivers of vehicles with external speed controls had a tendency to travel as fast as the speed-limiter would allow, even where that speed (which was at or below the speed limit) was too fast under current driving conditions (ABD Press Release, January 12, 2000).

While the Leeds University study fails to explain the deviation in driver behaviour, it is alarming enough to know that drivers of speed-limited vehicles show an increased propensity for risky and improper behaviour.

Contrast the above with OTA's assertion that removing the pressure to speed will reduce driver stress, which, OTA says, contributes to fatigue. There is no empirical data correlating increased speed with fatigue (Johnson, p. 128). Moreover, drivers responding to a recent survey indicated that traveling at the average speed of traffic, whatever that speed happens to be, produces the least stress (Johnson).

It is OBAC's position that drivers who are relaxed, in control of their trucks, and completely aware of their surroundings are in the best position to judge what is an appropriate speed. Comments gathered recently from members suggest that traveling at or slightly below ambient traffic speed is optimal.

In addition, there are situations where extra power and speed are essential. For example, when faced with a tire blowout, truck drivers are advised to accelerate while attempting to correct steering until control of the vehicle is gained (Parsons, Michelin

Safety Video), something that is impossible to accomplish if the vehicle is already running at maximum speed.

Extra speed may also be required both to safely merge into and move with the flow of traffic when entering limited access highways and to get out of the way of vehicles merging into traffic from on-ramps, and when overtaking a slower vehicle. In several studies that have been done on the effects of the use of speed-limiting devices, in comparison with vehicles not fitted with them, there is agreement on the negative effect of decreased road safety when performing an overtaking maneuver (Tardif, 49). Specifically, the risk of bottlenecks increases with the length of time it takes one vehicle to pass another on some roadways. While neither of the slow-moving vehicles may contribute directly to a collision, the Leeds University study demonstrates that their presence creates an environment where undesirable behaviour leads to collisions.

In sum, because the more pronounced speeding tendencies of light vehicle drivers will not be checked by OTA's proposal, slowing down trucks that already tend to comply with posted speed limits or safely move with the flow of traffic will only increase the speed disparity on Ontario's highways. Benefits that might be gained if all traffic was forced to move at a slower speed will be lost and Ontario will experience more dangerous conditions than currently exist on its highways.

V. OTA's proposal has improper extraterritorial effect on international commerce.

The government of Ontario obviously cannot enact laws that apply beyond its own borders. Yet that is precisely what OTA's proposal would have it do. At the present time, speed-limiter technology does not allow the equipment to be turned off and on at

will from inside the truck. The maximum speed that is programmed into a truck will govern, even when trucks with limiters are driven in jurisdictions with higher speed limits. This is a situation that can be expected to arise with great frequency. Twenty-two states in the U.S. (including several Northern tier states), and several Canadian provinces have maximum speed limits higher than 105 km/h (65 mph) on roads designed for the higher rate of speed.

Each year, hundreds of billions of dollars in freight cross the open border between Ontario and the U.S., and much of that is moved by heavy-duty trucks that regularly travel through all of these jurisdictions. Trucking provides a vital trade link with the U.S. The magnitude of the industry's importance to Canada's economic well-being can be illustrated by the fact that every 2.5 seconds, a truck crosses the border between Canada and the U.S. (Nix, vii; DAMF, 1). It is important to note that the top four border crossings are located in Ontario; statistics compiled by the Ontario Ministry of Economic Development and Trade show more than 7.5 million truck crossings between Ontario and the U.S. in 2004. Ontario accounts for more than half of the total for-hire international truck tonnage and 63 percent of all truck trips that cross the Canada-U.S. border (Nix, vii). Thus, OTA's proposed law would have a significant effect outside of Ontario, usurping the authority of those other jurisdictions to determine the maximum speed limit for vehicles traveling on their highways.

The many thousands of truckers who haul freight between Canada and the U.S. through Ontario's ports are traveling through U.S. jurisdictions with maximum speed limits as high as 120 km/h (75 mph). Accordingly, the mandatory activation of a speed-

limiter set to a maximum speed of 105 km/h (65 mph), as proposed, will have a significant, direct impact upon the day-to-day operations of many of Canadian drivers.

Canada and the U.S. have worked hard to make it as easy as possible to move goods over the borders. Both countries have adopted NAFTA and other trade agreements in an effort to eliminate barriers to trade and facilitate the cross-border movement of goods and services (NAFTA, General Part, Article 102). As Canada-U.S. trade increases, so too does the demand for trucking services; heavy truck activity across the Canada-U.S. border grew almost two percent in 2004 (TC Annual Report). Given the significant growth of opportunities presented by U.S. markets, a particular focus of provincial ministries of transport, including MTO, has been trans-border trade and travel. North-south trade corridor development under NAFTA has increased the need for harmonization of policies and regulations within the trucking sector to facilitate the free flow of goods and people. OTA's proposal is a step in the opposite direction, as the extraterritorial effect of mandatory speed-limiters is to place an unnecessary burden on commerce between Canada and the U.S.

As previously mentioned, OTA dismisses any suggestion that slower travel times will have more than a "marginal and manageable" effect on the competitive position of drivers forced always to travel at no more than 105 km/h (65 mph) through all jurisdictions. However, it has also been pointed out that this position is inconsistent with OTA's claim that the ability of other carriers to travel at speeds higher than those attained by members using speed-limiters will cause it competitive harm. OTA can't have it both ways; if higher speeds by others cause its members financial harm, then

forcing those other carriers to also travel slower must cause them comparable financial harm that will unduly burden commerce between the jurisdictions.

VI. There are several other effective measures for reducing speeding.

OBAC recognizes the right of individual motor carriers to voluntarily elect to use speed-limiters. However, OBAC firmly believes that while it is up to governments to set and enforce maximum speed limits, as each of the provinces in Canada and states in the U.S. have done to date, it is up to individual carriers to determine which of the varied options for controlling speed it will use. The choice of one or a combination of techniques is a business decision that should be made internally, based upon each carrier's analysis of the costs and benefits of the various options. This applies equally across the board from the very large carriers to the single truck owner-operator.

Interestingly, recent surveys show that most carriers already have a speed policy in place. Further, increasing numbers of motor carriers have used their independent business judgment to adopt a speed policy that, in recent years, has been applied to owner-operators as well as company drivers (Tardif, 35). While many have chosen speed-limiters, some carriers have combined limiters with alternative means of procuring compliance, and still others have relied exclusively on other alternatives. It is important to note this has all been accomplished without the hammer of a government mandate. The Ontario government would exceed its proper role and interfere unnecessarily in an internal business matter by mandating a particular method of speed control for all motor carriers coming into Ontario.

Equally important, as OTA itself has recognized, "just as with commercial vehicles, the key to improving the safety of our highways is increased enforcement of

the laws and better training, testing and licensing of drivers” (OTA Policy, FAQs, 6). Since the driver has the greatest impact on fuel efficiency, maintenance, and safety, more thorough driver training relating to proper driving speeds should have a positive effect on the speeds actually driven. Tardif et al in *Speeding*, recommend behavior modification through better training for trainers as well as commercial drivers on best practices, with “modules [that] would focus on the effect of speed both from an environmental and a safety point of view” (7). To retain its effectiveness, initial training could be supplemented by periodic distribution of anti-speeding awareness materials. For new drivers, an apprenticeship program providing a mentor and on-the-job training to develop safe driving skills could enhance classroom training. Technology cannot take the place of a well-trained driver, nor should it take away control of the vehicle from a well-trained driver.

Stepped-up law enforcement in geographic areas where the most serious speeding problems exist, such as Highway 401 between Windsor and Montreal, would have a significant deterrent effect on speeding. Studies show that even the *perception* of getting caught due to increased enforcement does slow down traffic (Tardif, 13). Vehicles traveling at excessive speeds exasperate and frustrate responsible, safety-conscious truckers, and the lack of appropriate enforcement is a common complaint among OBAC members. Appearing before Ontario’s Standing Committee on General Government debating Bill 169, OTA’s Bradley testified that “the level of enforcement of speeds on the 400 series of highways is inadequate, in our view, and has been for some considerable period of time.” He points out that “[speed] enforcement against

trucks is really particularly an area where they [OPP] do not concentrate their efforts. . .” (Legislative Assembly, Bradley).

Positive reinforcement through financial incentives and other encouragement for compliant driving have also proven effective in controlling driver speed. The need to speed will be eliminated if carriers monitor road speed on trip reports generated by the engine’s ECM and pay bonuses or increase per mile pay for compliant driving. Speed monitoring devices (satellite, electronic on-board computers, tachograph) and in-vehicle feedback may also voluntarily be used by individual carriers to slow down drivers.

Finally, in the Tardif study (41), drivers surveyed listed “just-in-time” delivery as one of the factors having the greatest influence on speed. Thus a greater focus on shipper requirements used by carriers to pressure drivers to speed would go a long way towards solving the problem. Importantly, this, and all the other alternatives discussed, would help put an end to excessive speeding without any additional government involvement or extraterritorial legal problems.

VII. Fuel conservation and control of fuel costs are also achievable by other means.

OTA has also touted fuel conservation and reduced fuel costs as an added benefit of its proposal. As a preliminary observation, OBAC must question the OTA’s sincerity in this respect. At the same time as OTA is seeking reduced speeds on the 400 series highways, allegedly to conserve fuel, save money, and reduce greenhouse gas emissions,⁵ it recommends in its policy that MTO “review whether it makes sense to

⁵ Notwithstanding OTA’s analysis, heavy-duty trucks are not the primary culprits in the production of greenhouse gasses (GHG). GHG are mostly carbon dioxide, a by-product of gasoline exhaust, not diesel.

raise the maximum speed limit to 100 kph on certain divided highways in the province where the maximum speed limit is presently 80 kph, or 90 kph” (OTA Policy, ii). Such a change could well eliminate any savings attributed to the prescribed use of speed-limiters, and flies in the face of OTA’s desire to conserve fuel and reduce costs.

Additionally, the actual cost savings from slowing down appear to be less than OTA speculates. OBAC believes that the 4 to 5 percent cost savings noted by OTA, without citation to the source of this statistic, were taken from a 1987 study that was republished in 1996 without any further testing, finding a 0.1 mpg decrease in fuel efficiency for each mile per hour of speed above 55 mph. More recent research studies have found improved truck technology in the form of better engines, electronic controls, and improved aerodynamics, has made them more efficient at higher speeds. Consequently, differences in fuel usage and costs have been minimized. Studies have shown the decrease to be closer to .08 mpg, and on rural interstates to be in the .03 to .05 range (Johnson, 18, 129).

Perhaps most importantly, speed reductions, whether achieved by the use of speed-limiters or by the alternative measures described above, will have the same impact on fuel usage and costs. Better driver training is particularly important here because driver variability (brake use, idle time, frequent acceleration/deceleration) has twice the effect of speed on fuel efficiency (Johnson, 129). Other avenues such as more aerodynamic truck design will also lead to equal or greater improvements in fuel usage. Aerodynamics has been identified as the most important factor in fuel efficiency for vehicles traveling above 50 mph (Johnson, 67). Between 55 and 60 mph, 50% of the fuel burned is used to overcome air resistance (Kenworth, 2). Simply put, mandatory

use of speed-limiters is not required to conserve fuel, nor is it even the best means of achieving this goal.

VIII. Government's role: the public good.

MTO clearly has a role to play in enforcement of public safety issues, therefore, OBAC must question the merit of redirecting limited enforcement resources to the verification of speed limiter settings. Historically, police officers, not MTO inspectors, have been responsible for speed enforcement. OTA's proposal that MTO enforcement personnel conduct routine speed-limiter checks at inspection stations is onerous and burdensome, and would create huge backlogs at inspection facilities. It makes no sense at all to saddle MTO with this task when a speeding vehicle should be obvious to any police officer on routine patrol.

In proposing fines, suspensions, and revocation of repair shop licenses for those who tamper with speed-limiter settings, OTA fails to consider the issue of privacy and data ownership. This step would oblige engine manufacturers to provide information gathered on who is doing the tampering, and that would likely violate the trust between customers and suppliers. The issue of data ownership and privacy is one MTO is currently grappling with vis-à-vis satellite and ECM data used for enforcement purposes against the owner of the data who acquires it for business purposes. This is already a complex and contentious issue that can get only muddier if enforcement personnel were to get unrestricted access to engine data via an ECM download while verifying speed-limiter settings. This would surely prompt a court challenge.

OBAC believes there are more appropriate ways for government to serve the public good in its dealings with the trucking industry: maintain a high level of speed

enforcement on roads and highways, particularly for the most serious offenders, i.e., light vehicles; direct enforcement resources toward non-compliant operators while the better ones go about their business; step up public education on how to share the road with trucks; promote the "No-Zone" campaign; and retest all drivers with questionable driving records. Speed-limiter enforcement, as OTA would have it, is a waste of money, and an intrusive practice that could cause further delays for truck drivers whose operating schedules are already governed by regulatory regimes such as Hours of Service.

And there are other ways government could facilitate safer and more efficient operating practices for trucking. In the area of energy efficiency, for example, MTO might consider allowing trucks to use newly opened High Occupancy Vehicle (HOV) lanes in the Greater Toronto Area. Trucks moving through dense traffic in stop-and-go conditions are operating in their least efficient state. Diesel engines revving and slowing and revving again through constant gear shifting produce the least efficient forward movement and the greatest total emissions. Keeping trucks moving through the rush-hour periods would greatly minimize periods of peak inefficiency for diesel engines, and would improve the flow of traffic in other lanes.

As well, the MTO might consider encouraging governments to offer investment tax credits to early adopters of 2007 diesel engines. The '07-generation diesel engines, while offering greatly reduced emission of oxides of nitrogen (NOx) and particulate matter (soot), will cost substantially more – about \$10,000 (U.S.) per heavy duty engine and between \$5000 to \$7000 (U.S.) per medium duty engine – according to recent media reports by International Truck and Engine Company, and this increased cost

would come on top of an expected decrease in overall fuel economy of about 5 to 10 percent. In short, the next generation of clean diesels will be costly to purchase and costly to operate. A tax credit could influence the purchase decisions of many major fleets, moving them forward from existing engine technology and into cleaner burning '07 technology.

IX. Conclusion.

Many of OTA's member motor carriers have adopted speed-limiter technology as the method of limiting the speeds traveled by their fleets of trucks, a decision that has apparently made it more difficult to keep and recruit drivers. However, as pointed out in these comments, there are a number of solutions to this problem. It might behoove those carriers to consider switching to other methods for keeping speeds down or to offering financial incentives to overcome driver resistance to fleet-enforced speed limits.

OBAC reiterates its objections to the OTA proposal: it is not the proper role of government to solve a business dilemma for some by forcing invasive technology such as speed-limiters on all. Further, it would be particularly wrong for government to take such action in light of evidence that highway safety is likely to be compromised by doing so.

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