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Supply Chain Focus

News and information for shippers, consignees and 3PLs about trends in today's trucking industry.



PUBLICATION PREPARED BY THE ONTARIO TRUCKING ASSOCIATION.

Supply Chain Focus is produced to keep Ontario Manufacturers, shippers and other users of trucking services apprised of trends in today's trucking industry.

Houston, We Have A Problem

By David Bradley

David Bradley is the President and Chief Executive Officer of the Ontario Trucking Association and the Canadian Trucking Alliance.

This year marks the 40th anniversary of the day man first landed on the moon. For those of us who were alive at the time, crowded around the old black and white TV set, it was hard to believe our eyes that it was actually happening. This was an amazing feat and ushered in the dawn of a new era. Like most of us growing up in the '50's and '60's, we watched Walter Cronkite describe the risks of what were called "moon shots", especially if the spacecraft over-shot the moon. I'm not a rocket scientist, but you didn't need to be one to know that over-shooting the moon was a bad thing and mission control had to get it right or they'd have a disaster on their hands. There were a few tragedies and close shaves along the way, but we all know things ultimately worked out.

What does any of this have to do with freight transportation? In terms of the freight rates that have prevailed in the trucking industry over the period of the recession, we've overshoot the moon by a mile (or whatever the space equivalent of a heck of a long way is).

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Houston, We Have A Problem ...continued

Sure, shippers' businesses are also under pressure; many significantly so. Carriers know that. Some truckers blame shippers for being greedy and taking advantage of the current situation. But that does not stop some from feeling that shipper greed is responsible for the current rate depression.

Some blame other truckers. Some ultimately blame themselves. Some of the rates that carriers seem willing to haul freight for these days may cause some to ask: "What planet are we from"?

Regardless of who is ultimately to blame, the question is: Who can realistically afford to give up 15, 25, 35% or more in revenue and expect to breakeven? The margins in trucking can't support those sorts of rate decreases. Surely, it is insane to think that after 20 years of economic deregulation carriers can cut their costs by the same order of magnitude in order to preserve margin. To make matters worse, some shippers are trying to get their carriers to lock-in rates for a year or more and tendering freight everyday – a process carriers say is designed to hammer the rates of incumbent carriers – who have proven they can provide the service – down beyond reason by comparing them to at what are best suggested (if not illusory) rates quoted by unproven carriers who may or may not be willing and able to provide the service.

All of the rules of the game appear to have changed. Truckers are being told to accept new, longer payment terms; new mileage platforms; and new fuel surcharge formulae. Income from accessorial charges like waiting time or border clearance has all but dried up for many.

Some blame load brokers, who have no real skin in the game and no understanding or connection to the true costs of moving freight.

But, the fact is that right now, there is little point in blaming anyone. Shippers are making these demands and getting the rates they are, because they can. It is the way things are – for now. Clearly, the decline in volume that has occurred so far during this recession is still outpacing the speed at which carriers are shedding capacity. Many carriers will say that business is off 20% to 30%. Bankruptcies in the trucking industry have hit new records in each of the past two years. While trucking job losses have in some recent months been the worst of any industry, employment is still less than 4% below where it was a year ago, which is mild compared to some other industries. But, the industry has always been lean on employment. Moreover, this number does not include, for example, the many owner-operators who have packed it in.

There are other factors also at play. With the glut of equipment in the marketplace some lenders/lessors are loathe to recall the equipment from carriers who are failing to make their loan/lease payments. At some point those carriers will have to pay the piper. There are probably a number of players who want out of the business and are taking a short-term view by attempting to get as many customers as they can today in the hope that it makes their company more attractive to potential buyers. Investment in the industry's human capital as well as its trucks, trailers and other technologies has been put on hold.

But it can't and it won't go on like this forever. The major reckoning in terms of capacity is yet to come and when it does it will restore some semblance of equilibrium to the supply-demand equation. We may already be seeing signs that the adjustment is underway. As fast as rates went down, they can go back up again. This is a matter of when, not if.

Impossible? We put a man on the moon didn't we?

Logistics Management Survey Indicates Shippers are Bracing for Higher Fuel Prices

An August survey of 130 logistics, supply chain, and transportation managers by Logistics Management, found that 61% of respondents indicated that if fuel prices rise they intend to raise or adjust their freight budget to cover higher than budgeted fuel prices and 85 per cent expect to pay higher fuel surcharges to motor carriers in the coming months.



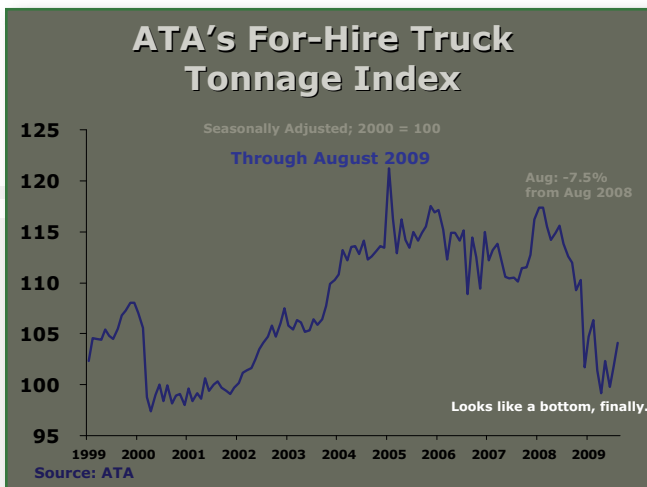
Economy Changing Trucking Industry Approach to Growth and Customer Management

They're making a list and checking it twice. A recent OTA survey indicates that in preparing for the economic turnaround many carriers are prioritizing customers in terms of profitability instead of the historic practice of planning equipment purchases to service the increased demand. Those customers who are seen to be contributing a greater share to the financial health of the company will be given priority over those who present a less profitable opportunity. The economic downturn has driven home the point to carriers that tighter capacity in the marketplace

places a premium on trucking service, as the Executive VP of Bibby Transportation Finance, a consulting firm based in Nashville, Tennessee explains: *“We think the benefits coming from the effect of reduced capacity in the market are driving higher rates per mile, which is increasing bottom-line results. And while it’s too early to make a definite call, we are hearing a more upbeat and optimistic outlook from our clients who are seeing increased demand for their trucking services.”* (Source: Logistics Management)

TCP Survey Points to Tight US Trucking Market

A September 2009 Transport Capital Partners (TCP) survey of close to 100 US trucking executives’ points to a tight market for shippers looking for trucking companies to move their freight. The TCP survey indicated the executives will be going after rate increases over the next 12-24 months, not equipment expansion. Lana Batts, partner at TCP, explains *“Nobody is really buying or intends to buy trucks right now, so that as volume picks up I don’t see carriers going out and buying more equipment. Instead they would rather raise rates and turn down loads than buy new trucks...The rate at which truck are being replaced by carriers is not sustainable. You need about 240,000 trucks a year coming into the market, and this year the market is expecting about 79,000 new truck.”* After seeing their bottom lines ravaged in recent years, carriers need and want to make themselves whole again, before they consider adding capacity. (Source: Fleet Owner)



The High Cost of Going Green

The autumn of 2009 marks a new era in environmentally sustainable trucking with the introduction of the EPA mandated zero emission 2010 Class 8 truck

engine. The emissions from this new generation of engine normally associated with smog and respiratory issues will be virtually undetectable. The air coming out of the stack on trucks equipped with these engines will be cleaner than the air in many US and Canadian cities. No other freight mode can lay claim to such clean engines. However, cleaner air comes at a cost. The “environmental surcharge” as some engine manufacturers’ have called it, will add \$7,500-\$10,000 to the purchase price of a new heavy truck engine. Most of the new engines will utilize liquefied urea, which will be contained in a separate tank and will have to be refilled on a fairly regular basis. The cost of liquefied urea is expected to exceed the price of diesel fuel. Recovering capital and operating costs of greener equipment will be an increasingly hot subject of debate between shippers and carriers. Brittain Ladd of Cognizant Technologies Solutions, who previously managed green logistics operations for Dell computers among others has stated: *“Shippers who understand the value of treating carriers as strategic partners and not as a commodity will understand the need for carriers to price the cost of going green into their rates and will be at least willing to discuss an increase.”*



Effective Green Supply Chain

Many shippers are looking to reduce their carbon footprint and that of their supply chains. In fact, with carbon emissions trading and caps perhaps around the corner, many shippers may not have a choice but to do so. Mike Kilgore, the founding president and CEO of Chainalytics and a highly regarded expert in green supply chain strategy says *“With very few exceptions green transportation equates to lower transportation costs, but that is not necessarily good for business. The hard trade-offs for green transportation will be in the area of service. The most fuel efficient modes or plans are typically the cheapest, but are also typically the least service orientated.”*

Adrian Gonzalez, Director at ARC Advisory group says *“Green is good for business because only green projects that are good for business get done; in other words, if a project is good for the environment but not for business, it rarely gets the green light.”* The

...continued

Effective Green Supply Chain ...continued

trucking industry has implemented several equipment and logistical improvements to reduce the industry's carbon footprint without sacrificing service. Find out what your carrier(s) are doing.

Cases of Fraudulent Load Brokers on the Rise

More carriers are reporting that they have been the victim of fraudulent load brokers. Carriers are completing the load assignments to find out they won't be paid and that the shipper has already paid the load broker who has disappeared. This can lead to difficult relations and legal action between carriers and shippers. All the carrier is looking for is to be paid for its service. In the US courts, an increasing number of decisions are creating a stronger book of precedent determining that shippers are liable to have to pay the carrier even though they may have already paid a freight broker. In Canada, the common law is developing but there are recent cases where the precedent is being established in favour of the carrier. Shippers are encouraged to know who is handling their freight in order to avoid having to pay twice in the event that your load broker is less than scrupulous.

Snow and Ice: An Issue for Carriers and Shippers

Increasingly, more jurisdictions in North America are passing laws to deal with the problem of snow and ice blowing off a truck or truck-trailer which can cause serious safety concerns. Since the loading, unloading and storage of trailers is often a shared responsibility between carriers and shippers, it is unlikely that the full force of the law and any civil suits arising out of contraventions of the law, would be visited not only on carriers but on shippers as well. Again, the right thing to do from both a safety and a liability perspective is for shippers to work with their carriers to jointly deal with the build-up of snow and ice in your trailer pool.



Distracted Driving Law Comes Into Force in Ontario

The Government of Ontario recently revealed the details of its ban on hand-held devices while driving and announced that the first phase of enforcement

will commence on October 26, 2009. The law, which passed earlier this year, will make it illegal for drivers (excluding police, paramedics and firefighters or anyone using a hand-held device to call 9-1-1) to talk, text, type, dial or email using hand-held cell phones and other hand-held communications and entertainment devices. Following a three-month period that begins October 26, where the focus will be on educating drivers, police will start issuing tickets on February 1, 2010 for non-compliance.



Under the new law, cell phone use while driving will only be permissible using a hands-free device where you press a button once to activate and one to deactivate that is mounted or secured to the vehicle dash. Anything that is Bluetooth hands-free is exempt. The trucking industry is not exempt from the legislation. The cell phone ban will apply the same to truckers as to other motorists. The legislation also deals with other hand-held devices in common use in the trucking industry. There is a permanent exemption for satellite, navigation, collision avoidance and other fleet management systems for the viewing of logistical information on the display. However, interaction with the device cannot be done while holding the device in hand while vehicle is in motion. In addition, under the new rules, truck drivers will not be permitted to use hand-held push-to-talk (hand mics, walkie-talkies) devices while driving unless they are mounted or secured to the vehicle (it cannot be hanging from the roof of the cab or dashboard) and is easily accessible. The device must also be activated by one press of a button and de-activated by another press of the button.

Perhaps the most controversial aspect of the new law as it pertains to trucking is the introduction of a time limited 3 year phase-out Citizen Band Radios (CB's) and two-way radios. These devices present a particular challenge since the receiver unit and communications unit are separate from each other and connected by a cord. They currently require a driver to hold down the handset button to talk. The three-year phase-out is designed to allow for hands-free technologies to be developed. However, OTA has been informed by Ministry Officials that should no suitable technology be readily available to replace CB's and two-way radios within the 3 year timeframe there may exist the possibility of further extension of

the phase out until such a time as the technology becomes available.

Ontario joins more than 50 countries worldwide and a growing number of North American jurisdictions that have some form of distracted driving legislation including Quebec, Nova Scotia, Newfoundland and Labrador, California and New York. The set fine will be determined between now and February 1, 2010. However, the fine range permissible for this offense is between \$60 and \$500. There are no demerit points associated with this offense.

Dramatic Toll Increases In US — Expansion of Toll Network Coming?

Shippers should be aware that trucking companies are facing increased costs as a result of dramatic increases in toll charges to cross international bridges and to operate



on US roadways. The most recent cost shock came when the Michigan Department of Transportation announced a January 2010 plan price increase for trucks crossing the BlueWater Bridge, northbound, from the current level of \$1.75 USD per axle to \$3.25 USD for all commercial vehicles — an 85% price hike.

This is not the only toll price increase carriers have faced at international bridges. Toll increases were introduced at the Peace Bridge to reflect a weakening Canadian dollar in early 2009 and again mid year. The Queenston Lewiston crossing adjusted tolls in August 2009 and again in November 2009 to reflect the exchange rate between the Canadian and US dollar.

Once carriers begin operating on US highways, the trend of toll increases continued in 2009. Kansas Turnpike announced 5% increases for trucks while the West Virginia Turnpike implemented a whopping 60% increase for commercial vehicles. In Maryland trucks faced a \$2 to \$13 dollar per axle increase and in California a possible increase of \$5 to \$41 per axle for commercial vehicles servicing the Bay area.

Furthermore, according to the National Conference of State Legislatures, at least 22 states in 2009 have told the federal government they want to make their roads “smarter” by installing toll lanes.

Shippers are encouraged to discuss with carriers the cost of moving their freight.

Leading Indicator Trucking Industry Showing Signs of Optimism

Want to know what’s happening in the economy? Ask a trucker. The trucking industry is one of the best leading indicators of economic activity there is. Truckers are usually about six months ahead of the curve in terms of going into, or coming out of economic slowdowns. A recent survey of trucking companies by the Ontario Trucking Association (OTA) conducted during the first three weeks of the fourth quarter shows that a majority (71%) of respondents felt that the Canadian economy has hit bottom – up from 52% in the third quarter survey. In addition, 64% said they felt the Ontario economy had also hit bottom, compared to only 46% in the previous quarter. The fly in the ointment continues to be the US economy, where a majority (53%), feel that the economy stateside has yet to reach bottom.

Similarly, while the survey points to growing optimism, there remains a significant level of uncertainty about prospects for the next three months. The fourth quarter OTA survey found that 41% of respondents had an optimistic outlook for the remainder of the quarter. Only 22% said they were pessimistic. This is a major reversal from the situation which prevailed at the beginning of the year where a mere 17% were optimistic and a majority (52%) were optimistic. Since that time the share of the optimists has steadily increased while the share of the pessimists has moved in the opposite trajectory.

Nevertheless, more than a third (37%) of the survey respondents are still unsure of where things are heading.

According to OTA president, David Bradley, “Obviously, there is a growing sense that the worst is now behind us, which is a very good thing. However, I would inject a note of caution and say that things are relatively fragile. So much of Canadian economic activity is dependent upon trade with the United States and if the US economy continues to falter, then we will be impacted. That, along with the value of the Canadian dollar, continues to be the major wild card in terms of the industry outlook.”

Landmark Court Decision Regarding Freight Forwarders

The Supreme Court of Canada has reached back in history to disapprove a 1994 decision of the Canada Industrial Relations Board and approve decisions of the federal Appeal Court of Canada and the Ontario High Court of Justice issued in 1976 and 1981 respectively. The decision of the Court is of significant consequence for the Canadian transportation industry generally, and the Canadian based international and inter-provincial freight forwarding industry specifically.

With the Supreme Court's decision, national and international freight forwarders operating in Canada, formerly regarded as subject to federal labour and employment law, may now fall under the jurisdiction of provincial law. In a surprise decision, the Court reversed the decision of the Alberta Court of Appeal and held that a freight forwarder providing service across several provinces, actually falls under provincial jurisdiction.

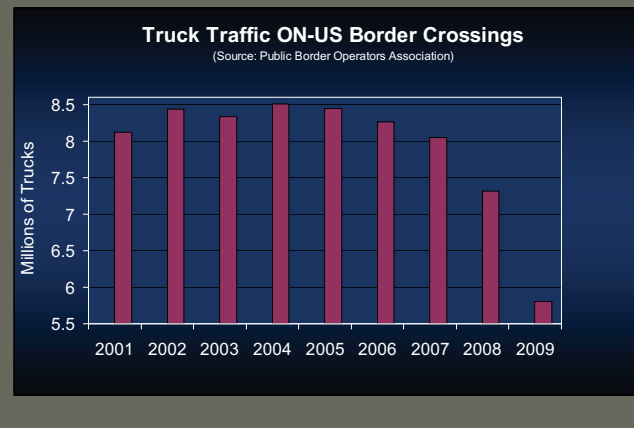
The law firm, Gowlings Lafleur and Henderson, in its recent newsletter offered the following impact analysis of this ruling:

At the present time, there are undoubtedly dozens upon dozens of business enterprises, whether they be called freight forwarders or logistics services, that arrange for the transportation of the freight of their customers inter-provincially and/or internationally. These operators very frequently will have owned or leased terminals/warehousing facilities stretching across the Canadian provinces, and in many circumstances they will have their own employees responsible for picking up goods for their customers and moving those goods into their provincial terminals for shipment beyond. Alternatively, those employees will receive goods at the terminal which have arrived by shipment from beyond the province, and will unload that freight for delivery to the operator's customers in the local provincial area. As a very common practice, these freight forwarding services or logistics services do not involve themselves in the physical movement of the freight between the provinces, or internationally. For the purposes of inter-provincial and international moves, they will contract the services of a carrier who will be engaged in moving that freight, whether by road, rail, air or water, across the provincial borders within Canada, or to and from the provinces, in international service.

With this decision, most of these operators, offering no equipment of their own in the physical movement of freight inter-provincially or internationally will now find that their local provincial operations are subject to provincial labour and employment laws.

It raises a question as to what the future may hold for many of these freight forwarders/logistics services providers recognising that in the past many may have been found to be subject to federal jurisdiction by order of the CIRB following the DHL International Express decision. This decision will have significant and far reaching effects with respect to the application of labour and employment law to a consequential section of Canada's transportation industry.

Declining US-Canada Trade



US Federal Trucking Fee Expected to Increase by Over 100%

The Unified Carrier Registration Agreement (UCRA) is established by US federal law. Canadian trucking companies are subject to UCRA. UCRA fees are based on the total number of commercial motor vehicles operated. UCRA fees depend not at all on the extent of a carrier's operation, only on the fact that it is engaged to some extent in interstate commerce. A carrier may, for example, have operations in just a few states, none of which participate in UCRA. Its fees will be the same as a carrier that operates the same number of commercial motor vehicles but whose operations extend to all participating states. Neither will it matter under UCRA which jurisdiction is acting

as a carrier's base plate — the level of fees for a fleet of a given size will stay the same.

The statute governing UCRA fees requires that the UCRA Board to recommend every year to the US Secretary of Transportation the level of fees to be effective the following year. The proposal for 2010 would see the smallest carriers in the system paying \$87 instead of \$39, while larger carriers would pay \$83,500 instead of \$37,500.

The cost of doing business in the US is skyrocketing. Carriers and shippers are encouraged to discuss the impact of increased government fees, fuel taxes and tolls on the cost of moving freight between Canada and the United States.



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555 DIXON ROAD
TORONTO, ON M9W 1H8

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1001 - 5000	\$1.25	\$1.35	1001 - 5000	\$1.25	\$1.35
over 500	\$1.10	\$1.25	over 500	\$1.10	\$1.25

SUPPLY CHAIN FOCUS is produced by the Ontario Trucking Association as part of its outreach to the shipping community and is aimed at enhancing the general level of communication between all those with a role in the distribution process. Direct your comments to:

Doug Switzer, Vice President, Public Affairs, OTA
doug.switzer@ontruck.org