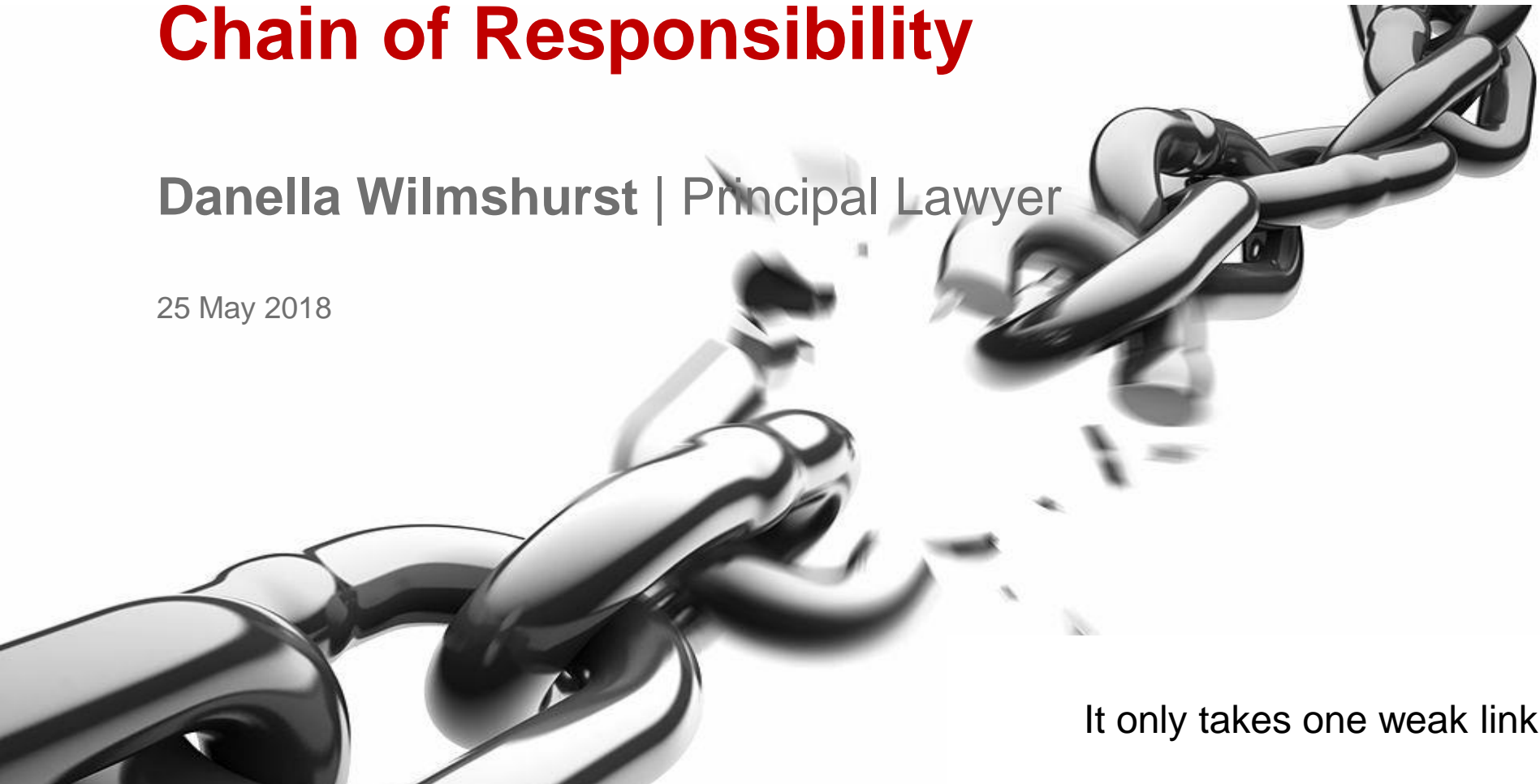


Chain of Responsibility

Danella Wilmshurst | Principal Lawyer

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It only takes one weak link

4 Main Changes



New Primary Duty – “so far as is reasonably practicable”



Liability of Executives



Greater Penalties



Defences

New Primary Duty

All parties must **actively** ensure safe practices, prevent breaches and remove any arrangement that may cause or encourage another party to break the law.

Executive officers have a “**due diligence**” obligation to ensure parties in the chain of responsibility comply with their requirements under the law.

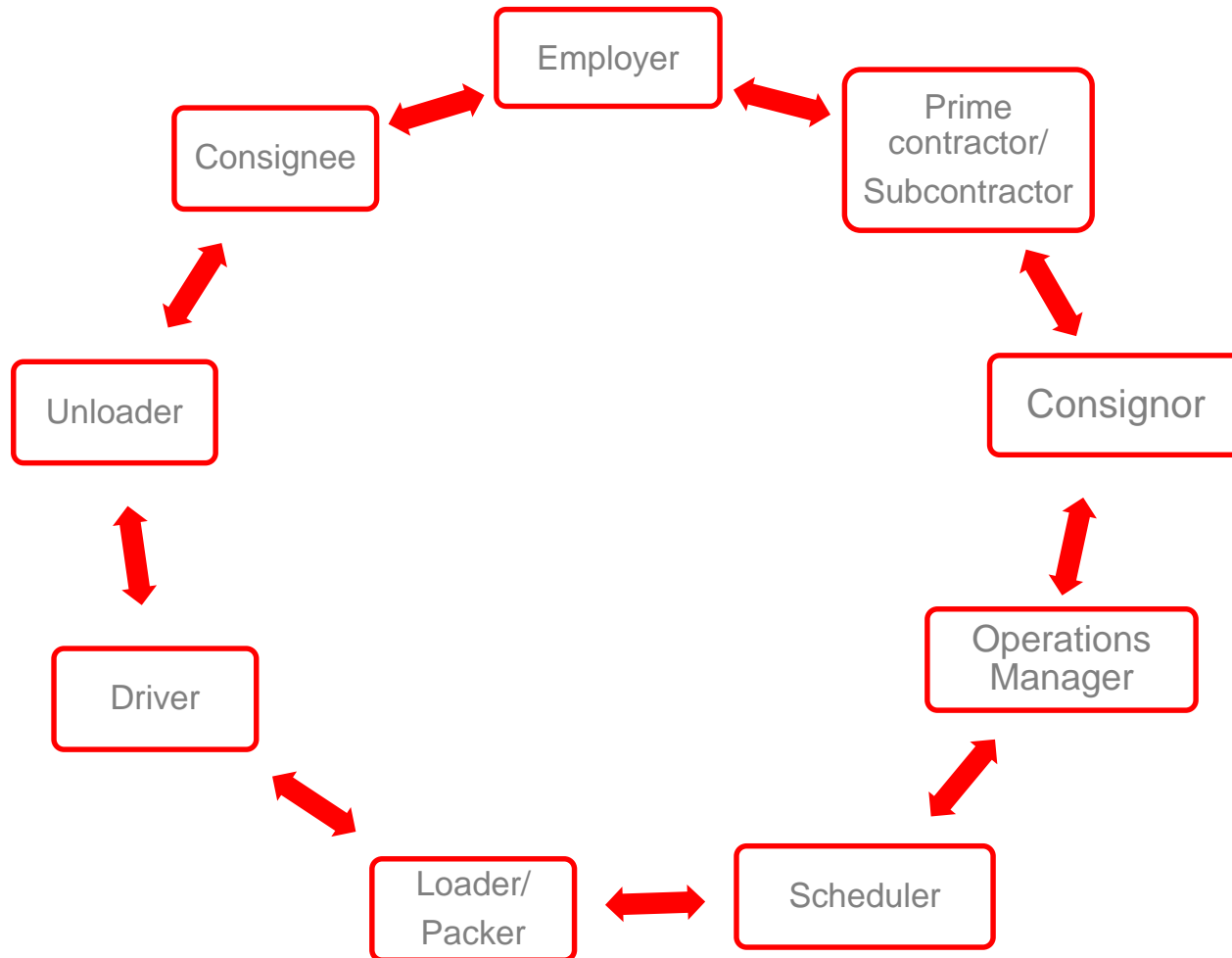
“**So far as is reasonably practicable**” – 5 factor test

Chain of Responsibility

Horizontal

Vertical

Horizontal CoR – Everyone has a part to play



Vertical CoR – Liability of Executives

Liability of Executives such as directors
– “due diligence”

Need to actively ensure compliance



Maximum Penalties

For a corporation: \$3 million

For a person: \$300,000 or 5 years imprisonment



Maximum Penalties

A Category 3 breach (discovery of breach, no accident/event needs to have occurred) attracts a penalty of \$50,000 for an individual and \$500,000 for a corporation!



Defences

Managing safety risks is a 4-step process:

Identify the risk in the area of responsibility

Assess the risk

Address the risk by taking all practical action to reduce the risk

Review the risk once action has been taken to ensure risk is being controlled

Defences

All reasonable steps must have been taken, not just some.

5 factors to determine what is “so far as is reasonably practicable”

Likelihood of the risk

Degree of harm

Whether you knew about the risk

Ways to and feasibility of removing or reducing risk

If costs are proportionate to the risk

Examples of possible breaches of CoR obligations

You are the loading manager, and because of some delays in loading the container, you have asked the driver to deliver the container within a tight timeframe which requires the driver to speed or forgo rest.

You are the freight forwarder of a container which you suspect was incorrectly packed by an overseas shipper.



Examples of possible breaches of CoR obligations

You are the forklift driver who loaded a truck and you did not check if the load exceeded the vehicle's mass limit.



You are the consignee of a container that was overweight.



Examples of possible breaches of CoR obligations

You are the manager of a driver who you know has failed to have minimum rest periods.



You are the owner of a fleet of trucks, and you have not been regularly servicing some of the trucks.



4 Actions to Take



Conduct your risk audit



Develop your plan



Review commercial documents



Speak with your insurance broker

Questions?