

The Senate

Rural and Regional Affairs and
Transport References Committee

Without Trucks Australia Stops: the
development of a viable, safe, sustainable
and efficient road transport industry

August 2021

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Foreword

The heavy vehicle sector is one of the most dangerous industries in Australia, with an average of 180 deaths per year and an increasing number of hospitalisations. Most of those impacted are truck drivers. These workplace injuries, traumas and deaths have immense social and economic impacts on drivers, their families, businesses and the general public. Compounding these safety issues are working conditions that mean road transport drivers are more likely to experience chronically poor physical and mental health. The sector experiences higher levels of suicide than the general population.

The economic cost of road crashes alone equates to \$27 billion per year. With the times we are currently living in, it cannot be overstated how important the industry is, and has been during the pandemic.

There is a safety crisis in the industry and the underlying economic and contracting pressures are the leading causes of this safety crisis. These pressures are often caused by the major clients of the transport supply chain who set rates of pay, and the terms and conditions. This behaviour has resulted in a 'race to the bottom' on prices.

While these problems are already catastrophic, they are getting worse with the emergence of the so-called gig economy in the transport industry. Gig economy transport companies are fast eroding already poor conditions for transport workers.

The role of governments has to date focussed on scrutinising the risk taking behaviour of drivers (such as driving whilst fatigued, drug use and speeding), and consequent enforcement mechanisms. There are insufficient efforts to address the underlying systemic causes for such behaviour and the way in which such pressures are driving unsafe work practices. These pressures all too often come from the top of the supply chain.

Transport workers and operators are being increasingly compelled to work harder and faster to sustain themselves - and this has created an environment where risk-taking behaviour has become the only competitively viable option in the industry.

This inquiry has clearly demonstrated the need for immediate government intervention to change the operation, practice and, safety culture of an industry that the entire country relies on. Urgent proposals for reform put forward by submitters across all parts of the sector include a focus on making the industry sustainable, making training and safety the number one priority, and addressing the underlying causes of unsafe behaviour.

In order to make this happen the central recommendation of this committee, and the submitters, is for the establishment of a central powerful independent body to regulate, promote, fund and support all parts of the sector.

Without the road transport industry the country would grind to a halt. There is no alternative for the services the sector provides. This inquiry is an opportunity for governments of all persuasions across the country to support an industry that supports so much of Australia.

List of Recommendations

Recommendation 1

8.10 The committee recommends that the government establishes or empowers an independent body that will, in consultation with industry, set universal and binding standards (including binding standards with respect to pay) which:

- ensure the safe performance of work and eliminate unsafe economic and contracting practices; and
- apply to all road transport supply chain participants, including transport operators, online/on demand operations, and workers (regardless of their employment or work status), and throughout supply chains.

8.11 The independent body shall also act as a dispute resolution body providing all road transport industry participants access to comprehensive binding dispute resolution capable of addressing all issues associated with, and general powers to resolve, disputes between some or all supply chain participants.

Recommendation 2

8.21 The committee recommends that the proposed initial priorities of the independent body should include to:

- ensure that all workers, whether owner drivers or employee drivers, are paid for all work time, including driving and non-driving time, and that any costs or efficiency dividends associated with this change are allocated fairly throughout the supply chain;
- institute a system of demurrage rates to help drivers and operators recoup costs for waiting and loading times, and that any costs or efficiency dividends associated with this change are fairly distributed through the supply chain; and
- establish binding industry payment terms ensuring that all road transport workers and operators are paid in full upon-delivery.

Recommendation 3

8.32 The committee notes that any effective standard-setting body must be underpinned by robust and adequately resourced enforcement mechanisms. The committee recommends that the government establishes an effective enforcement framework to ensure compliance with standards (including those established by the proposed independent standards-setting body) by:

- providing industrial and road enforcement agencies with dedicated enforcement frameworks and resources;

- providing the Fair Work Ombudsman with resources to conduct a review of independent contracting arrangements in the road transport industry in order to eliminate sham-contracting;
- providing the capacity for registered industrial organisations, such as trade unions and employer organisations, to carry out inspections and enforcement through transport supply chains; and
- compelling all road transport supply chain parties to disclose information about their contracting networks throughout their supply chain and provide such information to registered industrial agencies and enforcement bodies.

Recommendation 4

8.48 The committee acknowledges the various challenges facing the road transport industry arising from a failure to provide universal licensing and training credentials and to support pathways for young and underrepresented road transport workers. The committee recommends that the government works with state and territory governments (in consultation with relevant registered organisations of employers and workers) to:

- introduce a standardised, universal and compulsory safety induction unit for the road transport sector;
- introduce an industry skills passport for recording these and all other induction and training credentials;
- expedite the Infrastructure and Transport Ministers' Meeting consideration of the Austroads review of the Heavy Vehicle Driver Competency Framework and licensing arrangements and implements the results as a priority;
- develop a national apprenticeship scheme for the road transport industry;
- work with Safe Work Australia and in consultation with industry representatives, to develop safe strategies for enabling 16 to 18 year olds to train on forklifts; and
- implement incentive program for businesses that attract young trainees, women and people from disadvantaged backgrounds into the industry.

Recommendation 5

8.53 The committee acknowledges the importance of ensuring that robust investigatory, reporting and data collection systems are established in the road transport sector. The committee recommends that the government:

- expands the powers of the Australian Transport Safety Bureau to carry out independent, no-blame safety investigations of road crashes involving commercial heavy vehicles;
- ensures all commercial vehicle crashes are recognised, treated and investigated as workplace accidents; and

- improves data collection on the incidence and causation of work injuries and illness for both employees and owner drivers across jurisdictions.

Recommendation 6

8.67 The committee recognises the importance that road infrastructure and driver facilities have in delivering a safe, sustainable and productive road transport sector. The committee recommends that the government:

- develops a set of national guidelines for town planners regarding road envelopes and other factors required to facilitate efficient and safe road-based logistics support in metropolitan areas;
- identifies priority roads for dedicated and targeted road funding partnerships with relevant jurisdictions to improve the star rating performance of road infrastructure for all road users;
- adopts national guidelines for the design and placement of heavy vehicle rest areas for major highways and significant freight routes;
- work with all states and territories to mandate heavy vehicle only rest areas;
- supports a public education campaign that demonstrates why heavy vehicle drivers must have access to designated rest areas;
- increase the allowable vehicle and combination dimensions for heavy vehicles to allow for additional driver amenities;
- establishes a national fund to assess, maintain and upgrade freight road in rural and regional areas, to meet the minimum frequency and quality of heavy vehicle rest areas contained in the national guidelines and to support the rolling out of low-cost safety infrastructure such as rumble strips, green reflectors, wider medians and improved road shoulders; and
- establishes an independent national regulator to set commercial vehicle charges including toll road and port charges.

Recommendation 7

8.72 The committee recognises the role which technologies can have in supporting broader industry safety initiatives. The committee recommends that the government:

- funds an education and awareness campaign around the benefits to small operators of the use of telematics devices, both in safety and efficiency;
- ensures that all such telematics and other technologies meet strict guidelines designed to protect drivers' privacy;
- ensures that legislative and regulatory systems are reviewed to prepare for the emergence of automation and ensure that the risks and challenges which it may present to workers are effectively mitigated; and

- through the proposed independent standards-setting body provide cost-recovery rate allowances for the take-up of telematics and other safety critical technologies.

Recommendation 8

8.75 The committee recommends that the government:

- reviews the Reserve Bank of Australia's Banknote Distribution Agreement (BDA) and the operation of the wholesale cash system and the relationship between the Reserve Bank of Australia, the BDA and approved cash centres; and
- in consultation with industry participants, investigates the creation of national operating standards, accreditation and licensing scheme for the cash-in-transit industry.

Recommendation 9

8.88 The committee recommends that the government:

- develops an industry wide market-based ratings system to incentivise best-practice in the industry;
- ensures all current and future government contracts with a road transport component are only awarded to road transport operators with the highest standards of industrial and road safety compliance throughout their operations and supply chain;
- develops a plan and sustainable funding mechanism for establishing managed roadside livestock effluent disposal sites on key livestock freight routes in Australia;
- amends national laws to incorporate an appropriate fit for purpose national framework for managing fatigue; and
- appoint a dedicated Minister for Transport.

Recommendation 10

8.90 The committee recommends the establishment of a Transport Advisory Group or commission that:

- consists of members from the transport industry and unions;
- functions as a consultative and advisory body for ministers responsible for the infrastructure, transport and road freight portfolios; and
- meets regularly to facilitate ongoing dialogue and provide updates on matters of importance to the road transport sector.

Chapter 1

Introduction and background

Referral of the inquiry

1.1 On 11 September 2019, the Senate moved that the following matter be referred to the Rural and Regional Affairs and Transport References Committee (the committee) for inquiry and report by April 2020:

The importance of a viable, safe, sustainable and efficient road transport industry, with particular reference to:

- (a) the importance of an enforceable minimum award rate and sustainable standards and conditions for all stakeholders in the road transport industry;
- (b) the development and maintenance of road transport infrastructure to ensure a safe and efficient road transport industry;
- (c) the regulatory impact, including the appropriateness, relevance and adequacy of the legislative framework, on all stakeholders in the road transport industry;
- (d) the training and career pathways to support, develop and sustain the road transport industry;
- (e) the social and economic impact of road-related injury, trauma and death;
- (f) efficient cost-recovery measures for industry stakeholders, including subcontractors;
- (g) the impact of new technologies and advancements in freight distribution, vehicle design, road safety and alternative fuels;
- (h) the importance of establishing a formal consultative relationship between the road transport industry and all levels of government in Australia; and
- (i) other related matters.¹

1.2 On 13 November 2019, the Senate agreed to extend the inquiry reporting date to 14 October 2020.²

1.3 On 29 September 2020, pursuant to the order of 23 March 2020, the committee notified the President of a further extension of the reporting date to 11 February 2021.³

1.4 On 5 February 2021, pursuant to the order of 23 March 2020, the committee notified the President of a further extension of the reporting date to 23 June

¹ *Journals of the Senate*, No. 14, 11 September 2019, pp. 442-443.

² *Journals of the Senate*, No. 26, 13 November 2019, p. 805.

³ *Journals of the Senate*, No. 67, 6 October 2020, p. 2359.

2021.⁴ Further extensions were granted on 22 June 2021 (to 8 July 2021), and again on 24 June 2021 to 25 August 2021.

Conduct of the inquiry

- 1.5 Information about the inquiry was made available on the committee's webpage. The committee also wrote to a variety of road transport stakeholders and organisations, to invite submissions. Details regarding the inquiry and associated documents are available on the committee's webpage.
- 1.6 The committee received 128 public submissions which are listed at Appendix 1. Public submissions to the inquiry are also published on the committee webpage.⁵
- 1.7 The committee held a number of public hearings in relation to the inquiry, as follows:
- Albury, New South Wales, on 22 November 2019;
 - Brisbane, Queensland, on 24 July 2020;
 - Canberra, Australian Capital Territory, on 25 November 2020 (with South Australian participants via videoconference);
 - Perth, Western Australia, on 26 November 2020;
 - Sydney, New South Wales, on 8–9 February 2021;
 - Canberra, Australian Capital Territory, on 11 March 2021;
 - Melbourne, Victoria, on 19–20 April 2021; and
 - Canberra, Australian Capital Territory, on 28–29 April 2021.
- 1.8 A list of witnesses who appeared at these hearings is at Appendix 2. The Hansard transcripts of evidence from the hearings can be accessed through the committee's webpage.
- 1.9 In this report, some references to Committee Hansard and the Senate Journals are to proof transcripts. Page numbers may vary between proof and official transcripts.

Acknowledgements

- 1.10 The committee thanks all individuals and organisations that participated in the inquiry, by making submissions and giving evidence at public hearings.

Structure of the report

- 1.11 Chapter 1 provides the background and context to the committee's inquiry. The chapter includes an overview of the road transport industry, and in

⁴ *Journals of the Senate*, No. 85, 15 February 2021, p. 3033.

⁵

See: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/RoadTransportIndustry

particular the freight transport sector. The chapter also includes a discussion of road safety issues involving heavy vehicles and work health and safety for workers within the road transport industry.

- 1.12 Chapter 2 examines work health and safety issues across the road transport sector.
- 1.13 Chapter 3 discusses the unsustainable commercial practices threaten the future of road transport workers.
- 1.14 Chapter 4 considers existing regulations and enforcement mechanism in place to support proper conduct across the road transport sector and supply chain.
- 1.15 Chapter 5 is concerned with the education and training needs of workers in the industry, in particular the creation of standardised training under a BlueCard system, and considers measures to attract young people and more diverse entrants into the industry.
- 1.16 Chapter 6 examines road transport infrastructure and improvements required to meet the needs of the industry and achieve increased safety, efficiency and productivity.
- 1.17 Chapter 7 looks at other important elements of the road transport sector, such as new and emerging technologies, matters related to the cash-in-transport sector and calls for a dedicated Minister for Transport.
- 1.18 Chapter 8 consists of the committee's views for all matters contained within this report and subsequent recommendations.

Road transport industry overview

- 1.19 The Australian road transport industry is one of eight subdivisions of the transport, postal and warehousing industry. It includes road freight transportation and road passenger transportation including buses and taxis. This inquiry is primarily, but not exclusively, concerned with road freight transport.

Road freight transport activity

- 1.20 The Australian road network is vast and road freight transport is a vital means of transporting goods produced and consumed in Australia to businesses and communities. Mr Gary Mahon, chief executive officer of the Queensland Trucking Association, outlined the particular importance of the industry in the current economic climate:

The reliance on the road freight industry has never been more profound due to the extensive and ongoing impacts of the COVID-19 economic crisis, with disrupted global supply chains, simmering trade tensions and weaker demand. We need to be competitive on every metric to keep pace

on the global map and keep our freight efficiencies comparable. Our leading manufacturing and production industries depend on it.⁶

- 1.21 The Australian Bureau of Statistics has estimated that in the twelve months to June 2020, Australian road freight vehicles moved an estimated 223 949 million tonne-kilometres (tkm)⁷ of freight across Australia.⁸
- 1.22 Road freight transport is a growth industry. The road freight task increased by more than 75 per cent between 2000–01 and 2015–16, with the Council of Australian Governments Transport and Infrastructure Council estimating that the volume of freight carried by road will grow by over 35 per cent, to around 400 billion tonne-kilometres, between 2018 and 2040.⁹
- 1.23 Road infrastructure is flexible, readily accessible and has lower capital investment costs in comparison with air or rail transport. Road transport has a greater role over short distances and 75 per cent of Australia's road freight is carried intra-state.¹⁰ The Insurance Work and Health Group at Monash University submitted that the road freight transport industry generated 'almost 80 per cent of the revenue generated by the total freight transportation sector'.¹¹
- 1.24 Figure 1.1 shows the growth of road freight relative to rail and sea transport from 1974–75 to 2014–15. Road freight has grown an average of 5 per cent per annum since the 1970s with its overall share growing from 16 per cent to 29 per cent in that time.
- 1.25 The majority of road freight moved in 2017–18 was crude materials such as stone, sand and gravel (30 per cent) with manufactured goods (12 per cent) and live animals (11 per cent) the next largest categories.¹²
- 1.26 In terms of economic activity, the Australian Bureau of Statistics reported in 2018 that total transport activity contributed \$122.3 billion or 7.4 per cent of GDP in 2015–16, making it the fourth largest industry in the Australian

⁶ Mr Gary Mahon, Chief Executive Officer, Queensland Trucking Association, *Committee Hansard*, 24 July 2020, p. 33.

⁷ One tonne-kilometre is one tonne moved one kilometre.

⁸ Australian Bureau of Statistics, *Survey of motor vehicle use, Australia*, released 21 December 2020, <https://www.abs.gov.au/statistics/industry/tourism-and-transport/survey-motor-vehicle-use-australia/latest-release> (viewed 15 January 2021).

⁹ Transport and Infrastructure Council, *National Freight and Supply Chain Strategy*, August 2019, p. 10.

¹⁰ Australian Trucking Association/Deloitte Access Economics, *Economic benefits of improved regulation in Australian trucking industry*, March 2019, p. ii.

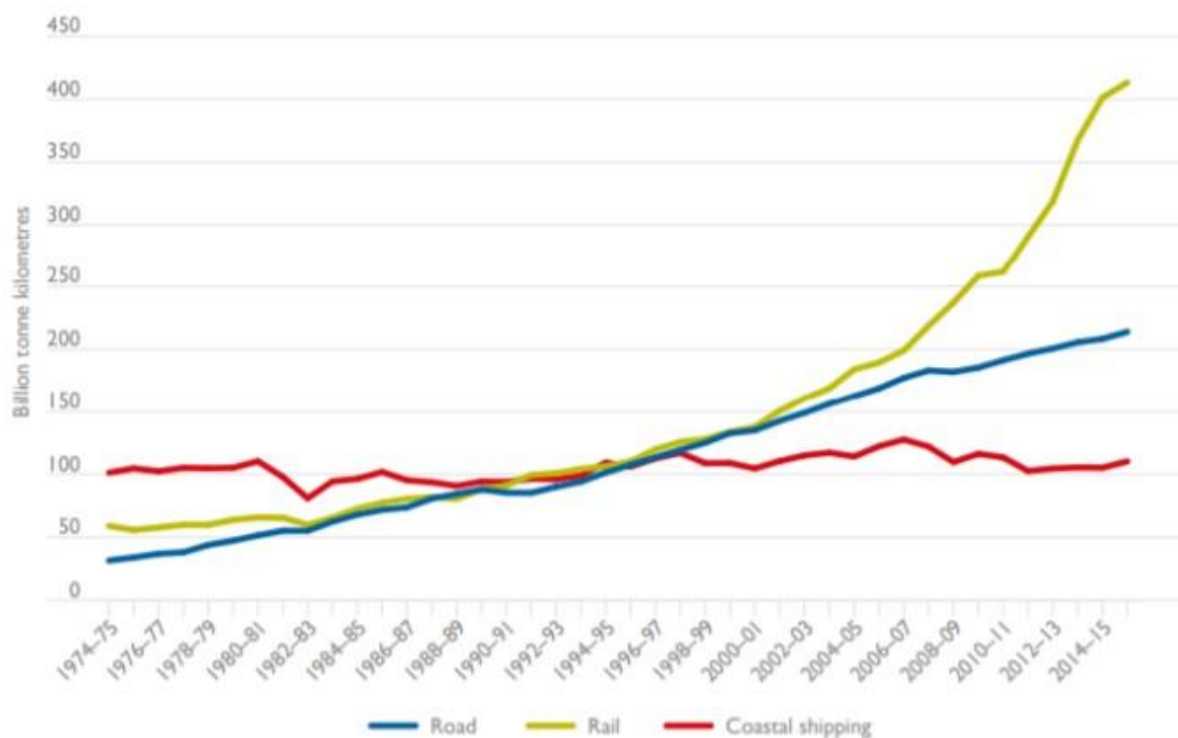
¹¹ Dr Ross Iles, Monash University, *Submission 53*, p. 1.

¹² Australian Bureau of Statistics, 'Road freight on the rise', 20 March 2019, <https://www.abs.gov.au/articles/road-freight-rise>.

economy. Total transport activity is made up of 'for-hire' passenger and freight transport, which comprises about 63 per cent of total transport activity, and in-house transport activity. The 'for-hire' transport sector, which comprises \$77 billion of GDP, includes road freight operations and other for-hire transport services such as taxi services and air passenger transport by commercial airlines. The remaining 37 per cent (\$45.3 billion) of the total transport economic activity was generated by in-house road transport, such as retail, mining, construction and agricultural sector industries using their own vehicles.¹³

- 1.27 IBISWorld in 2020 estimated the size of the road freight market by revenue to be \$47.6 billion.¹⁴

Figure 1.1 Domestic freight by mode of transport, 1974–75 to 2014–15



Source: BITRE Australian Infrastructure Statistics Yearbook 2017 reproduced in Australian Trucking Association/Deloitte Access Economics March 2019 paper (*Economic Benefits of Improved Regulation in Australian Trucking Industry*) p. 10.

Australia's heavy vehicle fleet

- 1.28 A heavy vehicle is classified by the Heavy Vehicle National Law (HVNL) as a vehicle with a gross vehicle mass (GVM) or aggregate trailer mass (ATM) of

¹³ Australian Transport Economic Account, released 31 October 2018, <https://www.abs.gov.au/statistics/economy/national-accounts/australian-transport-economic-account-experimental-transport-satellite-account/latest-release> (viewed 15 January 2021).

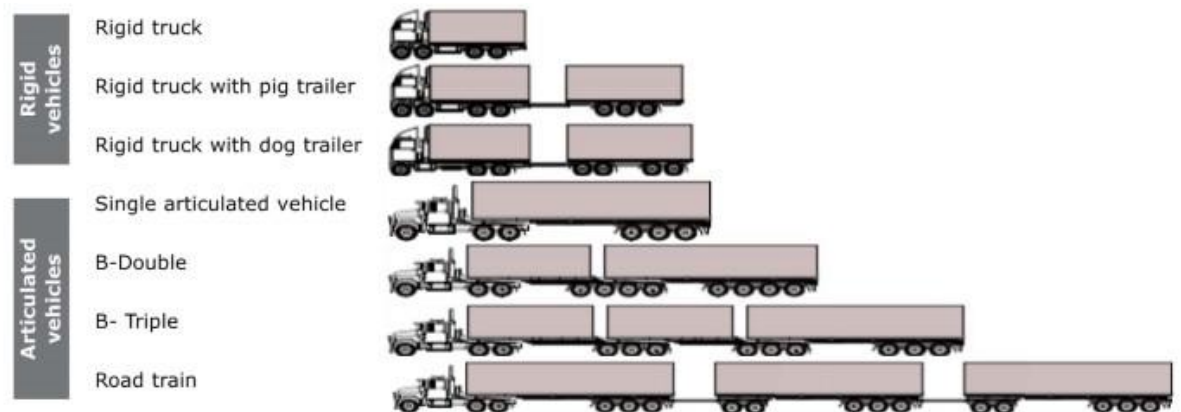
¹⁴ IBISWorld, *Road Freight Transport in Australia*, 2020, <https://www.ibisworld.com/au/industry/road-freight-transport/456/> (accessed 15 January 2021).

more than 4.5 tonnes. The GVM of a vehicle is the maximum it can weigh when fully loaded, as specified by the manufacturer. The National Heavy Vehicle Regulator (NHVR) provides the following as examples of heavy vehicles:

- semi-trailers;
- B-double freight trucks;
- road trains;
- livestock and other agricultural vehicles; and
- mobile cranes and other special purpose vehicles.¹⁵

1.29 Some of the most common heavy vehicle combinations used in the Australian vehicle fleet are depicted in figure 1.2 below.

Figure 1.2 Types of heavy vehicles



Source: Australian Trucking Association/Deloitte Economic Access, *Economic Benefits of Improved Regulation in Australian Trucking Industry*, March 2019, p. 15.

1.30 Road freight carried in heavy vehicles weighing 4.5 tonnes or more accounted for some 95 per cent of road freight movement in 2017–18, of which 77 per cent was carried on articulated trucks and 19 per cent by rigid trucks.¹⁶ The total Australian vehicle fleet in the twelve months to June 2020 included 104 442 articulated trucks and 521 255 rigid trucks.¹⁷

Road freight transport industry and workforce profile

1.31 The road freight transport industry ranges from small operators with a single vehicle to large multinational fleet operations. It also includes freight

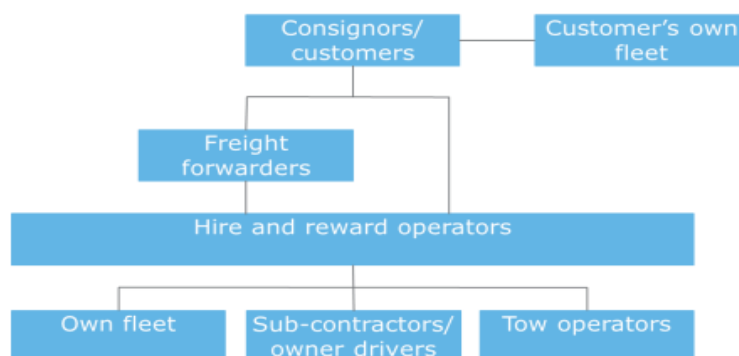
¹⁵ National Heavy Vehicle Regulator, *What is a heavy vehicle?*, <https://www.nhvr.gov.au/about-us/who-we-are/what-is-a-heavy-vehicle> (accessed 7 November 2019).

¹⁶ Australian Bureau of Statistics, *Road freight on the rise*, 20 March 2019, <https://www.abs.gov.au/articles/road-freight-rise>.

¹⁷ Australian Bureau of Statistics, *Survey of motor vehicle use, Australia*, released 21 December 2020, <https://www.abs.gov.au/statistics/industry/tourism-and-transport/survey-motor-vehicle-use-australia/latest-release> (accessed 15 January 2021).

forwarders who coordinate small freight movements but do not own the trucks they use (see figure 1.3).

Figure 1.3 Trucking industry structure



Source: Australian Trucking Association/Deloitte Access Economic, *Economic benefits of improved regulation in Australian trucking industry*, March 2019, p. 13.

- 1.32 Overwhelmingly, the industry's some 51 000 businesses are numerically dominated by small businesses, 'of which 53 per cent are non-employing owner drivers and 45 per cent are small businesses with 19 or fewer employees'.¹⁸ Less than 0.1 per cent of all operators have more than 200 employees.¹⁹ An industry overview in 2019 noted that '[less] than 0.5% of all operators own a fleet of more than 100 trucks, and 70% have just one truck in their fleet'.²⁰
- 1.33 The industry is characterised by low market concentration, with the three largest companies—Toll Group, Linfox and K&S—estimated to hold market shares of between one and nine per cent of industry revenue.²¹
- 1.34 According to an October 2019 report by the Bureau of Infrastructure, Transport and Regional Economics (BITRE), there were around 200 000 people employed in road transport (including bus and taxi passenger transport) in 2016, of which 129 525 were employed in road freight transport.²² Road transport

¹⁸ Toll Group, *Submission 76*, p. 4.

¹⁹ Toll Group, *Submission 76*, p. 4.

²⁰ Australian Trucking Association/Deloitte Access Economics, *Economic benefits of improved regulation in Australian trucking industry*, March 2019, p. 13, <https://www.truck.net.au/advocacy/submissions/economic-benefits-improved-regulation-australian-trucking-industry> (viewed 15 January 2021).

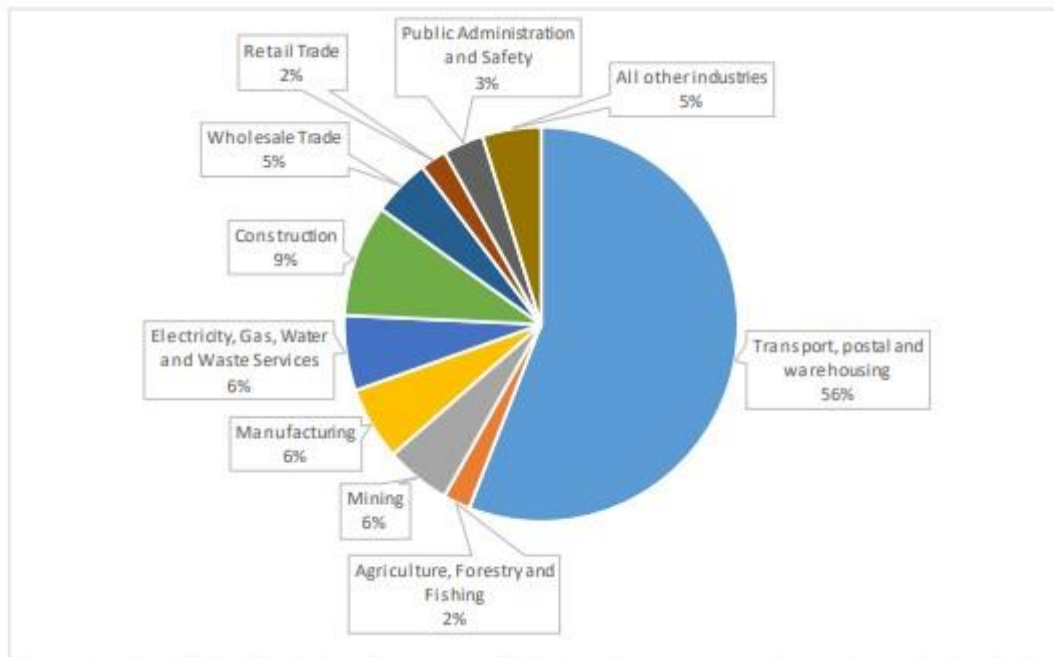
²¹ Australian Trucking Association/Deloitte Access Economics, *Economic benefits of improved regulation in Australian trucking industry*, March 2019, p. 14, <https://www.truck.net.au/advocacy/submissions/economic-benefits-improved-regulation-australian-trucking-industry> (viewed 15 January 2021); Toll Group, *Submission 76*, p. 4.

²² BITRE, *National profile of transport, postal and warehousing workers in 2016*, released October 2019, table 1, p. 9, https://www.bitre.gov.au/publications/2019/is_104 (accessed January 2021).

workers were 85 per cent male and had a median age of 47, with 30.1 per cent aged 55 or over.²³ Dr Ross Iles from Monash University submitted that truck driving 'is the most common occupation in male Australians, employing 1 in every 33 men of working age, or approximately 3% of all male workers in the nation'.²⁴

- 1.35 As shown in figure 1.4 below, while the transport, postal and warehousing sector employed the most drivers, they were also employed in other industries such as construction, manufacturing, utilities, mining, and wholesale trade.²⁵

Figure 1.4 Employing industry of Australian truck drivers, 2016



Source: BITRE, *National profile of transport, postal and warehousing workers in 2016*, p. 7.

- 1.36 As shown in figure 1.5 below, truck drivers in 2016 also reported working longer hours than average, with 39 per cent of truck drivers working 49 or more hours per week (compared to 16 per cent of workers nationally).²⁶
- 1.37 Truck drivers were more likely than other workers to be employed full-time (85 per cent compared to 65 per cent nationally). Full-time truck drivers in 2016 had a lower median weekly income (\$1173) than all full-time employed persons (\$1272). BITRE noted, however, that this median was 'well above the

²³ BITRE, *National profile of transport, postal and warehousing workers in 2016*, released October 2019, pp. 12–13, https://www.bitre.gov.au/publications/2019/is_104 (accessed January 2021).

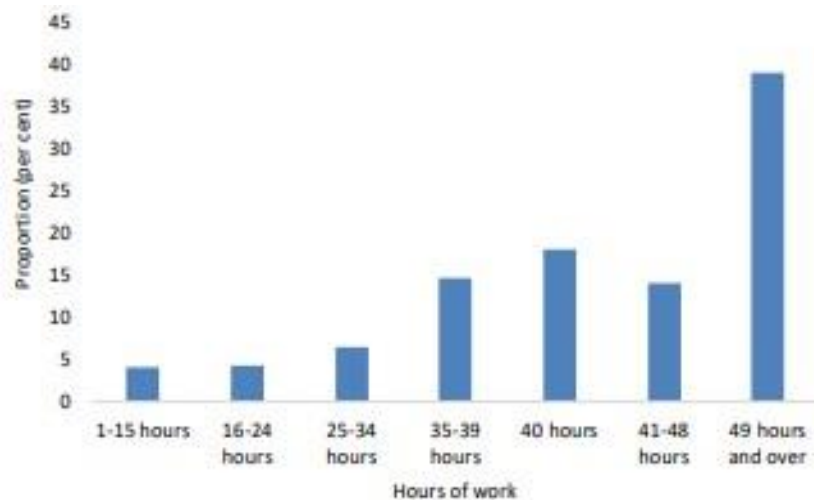
²⁴ Dr Ross Iles, Monash University, *Submission 53*, p. 2.

²⁵ BITRE, *National profile of transport, postal and warehousing workers in 2016*, released October 2019, p. 7, https://www.bitre.gov.au/publications/2019/is_104 (accessed January 2021).

²⁶ BITRE, *National profile of transport, postal and warehousing workers in 2016*, released October 2019, p. 26, https://www.bitre.gov.au/publications/2019/is_104 (accessed January 2021).

current minimum award rates of pay for full-time long distance truck drivers', which in 2016 ranged between \$814 and \$924 per week, excluding allowances, penalties and overtime.²⁷

Figure 1.5 Proportion of truck drivers by working hours, 2016



Source: BITRE, *National profile of transport, postal and warehousing workers in 2016*, p. 26.

1.38 Transport and logistics company Toll Group submitted in response to these workforce figures that:

The [BITRE] report paints a sobering picture of the demographics in the industry. Despite comparatively good wages, deficits in safety and status combine to make it unattractive. We have made no progress on attracting women to the workforce, we have an aging workforce, second only to farming, and we've lost 6,400 truck drivers during a time where the freight task has doubled. Government and industry need to work together to map out a blueprint for attracting people to the industry. If truck drivers keep declining at the current rate, the industry could come to a standstill.²⁸

1.39 The Australian Road Transport Industrial Organisation (ARTIO) made clear that the primary focus needed to be pay conditions across the road transport sector. ARTIO's representative, Mr Paul Ryan made clear that without addressing this matter, then the sector will have an issue attracting people into the industry.²⁹

Heavy vehicles and road safety

²⁷ Bureau of Infrastructure, Transport and Regional Economics (BITRE), *National profile of transport, postal and warehousing workers in 2016*, released October 2019, p. 26, https://www.bitre.gov.au/publications/2019/is_104 (accessed January 2021). Current minimum weekly rates in the Road Transport (Long Distance Operations) Award 2020 are listed in chapter 3.

²⁸ Toll Group, *Submission 76*, p. 14.

²⁹ Mr Paul Ryan, National Industrial Adviser, Australian Road Transport Industrial Organisation, *Committee Hansard*, 19 April 2021, pp. 5–6.

- 1.40 Heavy vehicles are disproportionately involved in road crash casualties. Analysis released by BITRE in 2016 calculated that heavy vehicles comprised 2.4 per cent of registrations and 7 per cent of vehicle-kilometres travelled, but were responsible for some 16 per cent of road crash fatalities and 4 per cent of injuries.³⁰
- 1.41 Collisions involving heavy vehicles have high rates of death and injury due to the 'mass difference between heavy vehicles and all other vehicles and unprotected road user'.³¹
- 1.42 BITRE further noted that in around 80 per cent of fatal multiple vehicle crashes involving trucks, the truck driver was not at fault.³²
- 1.43 BITRE further explained that 'trucks on average travel longer distances than passenger vehicles, and account for a proportionally larger share of traffic on roads outside urban areas', where most fatal accidents occur.³³ Eighty per cent of fatalities where an articulated truck is involved, and 55 per cent where a heavy rigid truck is involved, occur in a regional or remote area.³⁴

Deaths from crashes involving heavy vehicles

- 1.44 During the 12 months to the end of December 2020, 170 people died in crashes involving heavy vehicles on Australian roads. This included 104 deaths in crashes involving articulated trucks and 68 deaths in crashes involving heavy rigid trucks. This was a 9.6 per cent decrease on the previous 12 months.³⁵
- 1.45 Between 2011 and 2020, the average number of people killed each year in Australia in crashes involving heavy vehicles was 180. As shown in figure 1.6, the overall trend showed a decline in deaths on average by 2.5 per cent per annum over the decade and by 0.9 per cent per annum since December 2017.³⁶

Figure 1.6 Numbers of deaths from crashes involving heavy trucks, 2011–20

³⁰ BITRE, *Heavy truck safety: crash analysis and trends*, 2016, p. 1.

³¹ Associate Professor Jeremy Woolley and Doctor John Crozier, *Inquiry into the National Road Safety Strategy 2011–2020*, September 2018, p. 25.

³² BITRE, *Heavy truck safety: crash analysis and trends*, 2016, p. 1.

³³ BITRE, *Heavy truck safety: crash analysis and trends*, 2016, p. 4.

³⁴ BITRE, *Road trauma involving heavy vehicles 2018 annual summary*, April 2020, <https://www.bitre.gov.au/publications/ongoing/road-trauma-involving-heavy-vehicles> (viewed 15 January 2021), p. iv.

³⁵ BITRE, *Fatal heavy vehicle crashes Australia quarterly bulletin Oct–Dec 2020*, <https://www.bitre.gov.au/publications/ongoing/fatal-heavy-vehicle-crashes-quarterly> (viewed 12 April 2021).

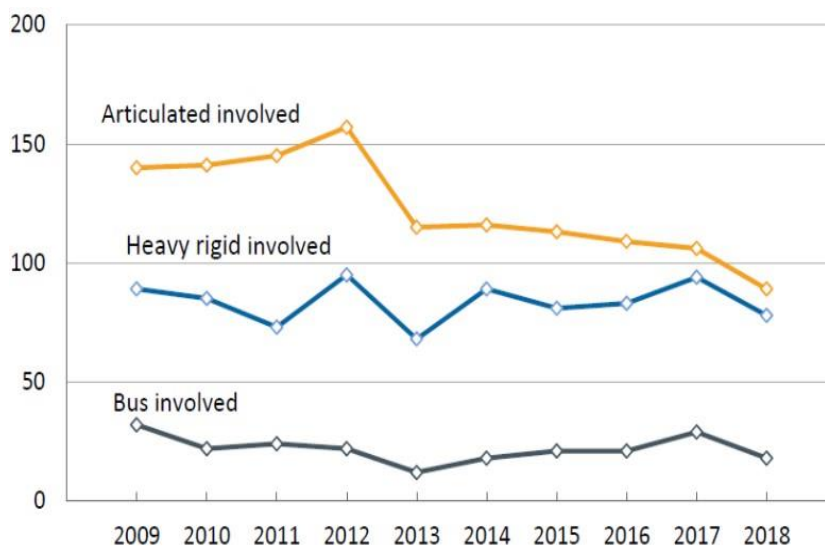
³⁶ BITRE, *Fatal heavy vehicle crashes Australia quarterly bulletin Oct–Dec 2020*, <https://www.bitre.gov.au/publications/ongoing/fatal-heavy-vehicle-crashes-quarterly> (viewed 12 April 2021).

12 Months ended	Articulated Truck involved	Heavy Rigid Truck involved	Any heavy truck involved	Bus involved	All road crash deaths ^a
December 2011	142	68	205	25	1,277
December 2012	153	91	239	18	1,300
December 2013	115	66	176	12	1,187
December 2014	115	88	202	20	1,151
December 2015	115	81	190	22	1,204
December 2016	106	84	185	24	1,292
December 2017	106	92	187	32	1,222
December 2018	90	72	155	23	1,134
December 2019	102	89	188	21	1,186
December 2020	104	68	170	13	1,107
Change last 12 months (%)	2.0	-23.6	-9.6	-38.1	-6.7
Ave. trend change p.a.(%)					
- for last 10 years	-4.3	0.3	-2.5	0.0	-1.1
- for last 3 years	0.7	-6.7	-0.9	-24.4	-2.5

Source: BITRE, *Fatal heavy vehicle crashes Australia quarterly bulletin Oct–Dec 2020*.

- 1.46 When the trend for fatalities in crashes involving heavy vehicles is broken down by type of vehicle involved, as shown in figure 1.7 below, fatalities in crashes involving articulated trucks fell by an average of 5 per cent each year between 2009 and 2018 while the average number of fatalities in crashes involving rigid trucks over the same period remained steady.³⁷

Figure 1.7 Fatalities in crashes involving heavy vehicles—trends, 2009–18



Source: BITRE, *Road trauma involving heavy vehicles 2018 annual summary*, April 2020, p. iii.

- 1.47 The National Truck Accident Research Centre reported significant improvement in the safety performance of the heavy vehicle fleet between

³⁷ BITRE, *Road trauma involving heavy vehicles 2018 annual summary*, April 2020, <https://www.bitre.gov.au/publications/ongoing/road-trauma-involving-heavy-vehicles> (viewed 15 January 2021), p. iii.

2004 to 2015, from a rate of 1.85 fatal crashes per billion tonne kilometres of freight to just over 1. In 2016 and 2017 the rate of crashes remained static.³⁸

Hospitalisations from crashes involving heavy vehicles

1.48 Between 2008 and 2017, an average of around 1700 people a year were hospitalised in Australia due to accidents involving heavy trucks or buses. While deaths from heavy vehicle crashes have reduced in recent years, numbers of hospitalisations are increasing. Table 1.1 below shows the numbers of hospitalised injuries by year to all road users and to heavy vehicle occupants (mostly drivers) from crashes involving heavy vehicles or buses.

Table 1.1 Hospitalised injuries in crashes involving heavy vehicles, 2008 to 2017

	Heavy vehicle or bus – all road users	Heavy transport occupants	Bus occupants
2008	1,610	567	173
2009	1,512	432	214
2010	1,599	473	247
2011	1,765	562	215
2012	1,663	511	219
2013	1,734	485	227
2014	1,770	479	292
2015	1,755	510	246
2016	1,832	485	284
2017	1,877	528	266

Source: BITRE, *Hospitalised injury, September 2020, tables 2 and 7.*

Social and economic costs

1.49 Road-related injury, trauma and death has an immense social and economic impact. It includes losses of a person's potential earnings and contribution to a household, ongoing care of people with disability, medical costs, vehicle repairs and unavailability, travel delays and insurance administration. There are also intangible losses from the quality of life a person would have enjoyed had they not died prematurely as well as the pain, grief and suffering from relatives and friends.³⁹

1.50 Emeritus Professor Michael Quinlan, an academic specialising in industrial relations and workplace health and safety, informed the committee that a study in which he had participated on the impact of workplace death found that 'of the 12 to 20 people on average who are affected by a workplace fatality,

³⁸ National Truck Accident Research Centre, *Major Accident Investigation Report 2019*, p. 3.

³⁹ BITRE, *Cost of road crashes in Australia 2006*, Research report 118, 2009, p. xiv.

and this included truck drivers, 61 per cent experienced post-traumatic stress disorder, 44 per cent experienced major depressive disorder and 42 per cent experienced prolonged grief disorder'. Emeritus Professor Quinlan concluded that trucking 'is one of the most dangerous occupations and the impacts on families are profound'.⁴⁰

- 1.51 The social and economic cost of road trauma also forms the basis of cost-benefit analyses of regulations aimed at reducing physical harm such as transport safety measures.
- 1.52 The Queensland Department of Transport and Main Roads estimated serious brain injuries cost the community around \$4.8 million and each spinal injury \$9.5 million.⁴¹
- 1.53 The Department of Infrastructure, Transport, Cities and Regional Development submitted that '[the] Australian Transport Assessment and Planning Guidelines Steering Committee is currently leading a project on behalf of the Transport and Infrastructure Council to develop nationally agreed willingness-to-pay⁴² values for private car drivers and passengers, which will support future assessment of the cost of road crashes'.⁴³
- 1.54 The Transport Workers' Union of Australia (TWU) referenced statistics that reveal the social and economic cost associated with deaths and injuries across the road transport sector:
 - an economic cost of road crashes equating to \$27 billion per year;
 - approximately 200 heavy vehicle crashes resulting in fatalities;
 - 1500 crashes leading to hospitalisation;
 - a further 11,000 crashes resulting in less serious injuries; and
 - 32,000 crashes causing property damage.⁴⁴
- 1.55 A 2016 study by the ANU found the total costs of road crashes to be two per cent of Australia's GDP or \$33.16 billion, consisting of: \$9.38 billion in property damage; \$10.2 billion in fatality costs; and \$13.58 billion in injury costs indicating a total increase of 22 per cent since 2006. Of those road crashes, the heavy vehicle sector was over represented with 14.7 per cent of the total

⁴⁰ Emeritus Professor Michael Quinlan, *Committee Hansard*, 9 February 2021, pp. 7–8. See also Lynda R. Matthews et al, *Death at work: improving support for families*, May 2020, p. 21 (tabled 9 February 2021).

⁴¹ Queensland Department of Transport and Main Roads, *Submission 25*, p. 7.

⁴² A willingness-to-pay approach estimates 'the value of life in terms of the amounts that individuals are prepared to pay to reduce risks to their lives'. See BITRE, *Cost of road crashes in Australia 2006*, Research report 118, 2009, p. 20.

⁴³ Department of Infrastructure, Transport, Cities and Regional Development, *Submission 79*, p. 2.

⁴⁴ Transport Workers' Union of Australia, *Submission 126*, p. 13

number of crashes involving 'heavy rigid or articulated trucks, accounting for \$4.64 billion in costs alone'.⁴⁵

Crash risks to drivers

1.56 Truck drivers face significant risk of crashes. Figure 1.8 shows the numbers of heavy truck occupant (mostly driver) deaths and hospitalisations in the decade prior to the 2017–18 financial year. In 2019, fifty drivers were killed in truck crashes, the highest figure in a decade and a 30 per cent increase on 2018.⁴⁶

1.57 Truck drivers emphasised to the committee that these are not just road statistics, they are workplace statistics, and that there is a degree of acceptance of driver accidents and fatalities that would not be tolerated in other industries. Mr Peter Biagini, Queensland Branch Secretary of the Transport Workers' Union observed:

We are seen as traffic accidents, and they happen all day long. But if you get killed on a building site or in a mining accident, it's seen as a disaster – and it is.⁴⁷

Figure 1.8 Deaths and hospitalised injuries of heavy truck occupants, 2007–08 to 2017–18

<i>Financial year</i>	<i>Deaths Heavy truck occupants</i>	<i>Hospitalised Injury (HI) Heavy truck occupants</i>	<i>High-threat-to-life (HTTL) Injury Heavy truck occupants</i>
2007-08	-	497	143
2008-09	49	517	165
2009-10	41	454	145
2010-11	32	499	158
2011-12	34	556	181
2012-13 ^b	35	481	156
2013-14	38	500	181
2014-15	29	489	159
2015-16 ^c	36	492	161
2016-17	35	531	181
2017-18	36	-	-

a Drivers and passengers

b Due to a break in the hospitalised injury series in 2012, data from 2012-13 onwards is not directly comparable with previous years. Victoria changed case inclusion criteria to exclude cases cared for solely in Emergency Departments from 1 July 2012. NISU estimates that this decreased admitted case in Australia by 2000 cases (-5.6 per cent) in 2012-13 compared to 2011-12, with the reduction likely to differ by road user group.

Source: BITRE, *Road trauma involving heavy vehicles 2018 statistical summary*, April 2020, p. 11.

1.58 The hospitalisation of drivers was identified as a continuing concern for the viability of the industry as many hospitalised drivers are unable to return to work.⁴⁸

⁴⁵ Transport Workers' Union of Australia, *Submission 126*, p. 13

⁴⁶ National Truck Accident Research Centre, *Major accident investigation 2020 report*, 2021, p. 3.

⁴⁷ Mr Peter Biagini, Queensland Branch Secretary, Transport Workers' Union, *Committee Hansard*, 24 July 2020, p. 66.

- 1.59 A study by Toll Group identified suicide death of motorists by truck collision as another significant risk for truck drivers. Toll studied 147 deaths in 127 incidents that Toll drivers had been involved in over a 10-year period and found that in 14 per cent of cases 'a third party intentionally [moved] into the path of one of [Toll's] vehicles and is confirmed as suicidality-ideated by the coroner, the police or an insurer'.⁴⁹
- 1.60 The George Institute for Global Health, a medical research institute, cited National Transport Accident Research Centre analysis from 2017 that found that '37.5 per cent of all multi-vehicle fatal incidents in 2017 were either indicated or strongly indicated to be suicides, with 20.8 per cent being strongly indicated'. The George Institute remarked that the difficulties in identifying suicides by truck 'have led to under reporting and therefore a lack of action on this issue', which could have a 'detrimental effect on the mental health of truck drivers'. The George Institute articulated the need for research and investment in this area to understand its prevalence, impacts and prevention strategies.⁵⁰
- 1.61 Work health and safety hazards to workers in the road freight transport industry are discussed in more detail below.

Reducing heavy vehicle-related injury, trauma and death

- 1.62 Mr Andrew McKellar, chief executive officer of the Australian Trucking Association drew the committee's attention to the National Road Safety Strategy 2021–2030 with the observation that it aimed for a '50 per cent reduction in fatalities per capita and a 30 per cent reduction in serious injuries per capita by 2030' but that it 'does not quantify how Australia can get there, and the proposed actions that we see in there relating to heavy vehicles—to trucks—are not strong'.⁵¹
- 1.63 The committee heard that given that in most heavy vehicle accidents the driver was not at fault, there appeared to be a deficit in training for motorists, especially young drivers, on how to better anticipate other road users and avoid crashes with heavy vehicles.⁵²

⁴⁸ Mr Peter Biagini, Queensland Branch Secretary, Transport Workers' Union, *Committee Hansard*, 24 July 2020, p. 66.

⁴⁹ 'Using data from the whole Toll fleet', *Power Torque*, <https://www.powertorque.com.au/using-data-from-the-whole-toll-fleet/>, cited by Roe's Holdings, *Submission 44*, p. 11.

⁵⁰ George Institute for Global Health, *Submission 27*, p. 2.

⁵¹ Mr Andrew McKellar, Chief Executive Officer, Australian Trucking Association, *Committee Hansard*, 28 April 2021, p. 21.

⁵² See, for example, Queensland Trucking Association, *Submission 69*, p. 9; Australian Trucking Association, *Submission 91*, p. 8; Mr Rod Hannifey, *Submission 45*, p. 3; Toll Group, *Submission 76*, p. 11.

- 1.64 NatRoad submitted that benchmarks for heavy vehicle road safety should be created from data to enable performance improvements to be measured against appropriate targets. NatRoad called for further research into and analysis of heavy vehicle crashes and was one of several submitters that advocated for a dedicated authority, such as the Australian Transport Safety Bureau or the Office of Road Safety, to take responsibility for investigating and reporting on serious heavy vehicle crashes.⁵³
- 1.65 Other witnesses emphasised that any specialised unit with responsibility for heavy vehicle collisions should look beyond driver fatigue to 'what sort of training have they had and what pressure have they been put under by anybody in the chain'.⁵⁴
- 1.66 Inquiry participants repeatedly stressed the interconnectedness of heavy vehicle road safety and economics, emphasising that time and financial pressures led to drivers engaging in riskier behaviours such as speeding and missing breaks.⁵⁵ As one driver explained,
- Trucks don't have accidents drivers do, and every wage contract in the industry at this time, tempts & compels the long-distance driver to drive in an unsafe manner and put his or hers and other road users lives at risk.⁵⁶
- 1.67 Mr Richard Olsen, Branch Secretary of the Transport Workers' Union of New South Wales, pointed to systemic issues affecting the industry where wealthy clients at the top of the supply chain exert downward pressure to undermine safety:
- Year on year, we see major profitable retailers, manufacturers and companies demanding their goods be delivered in less and unrealistic time frames. This leads to drivers being pushed by bosses to cut corners by pushing speed, working excessive hours, skipping rest breaks and ignoring fatigue management regulations. With little individual bargaining power, drivers are often forced to put themselves in danger. As Australia's deadliest industry, no lessons have been learnt from consecutive tragedies.⁵⁷
- 1.68 The link between pay and conditions and road safety is discussed in more detail in chapter 2.

⁵³ NatRoad, *Submission 47*, p. 15. See also Toll Group, *Submission 76*, p. 11; Australian Trucking Association, *Submission 91*, p. 13.

⁵⁴ Ms Roxanne Mysko, Chief Executive Officer, United Transport Group, *Committee Hansard*, 25 November 2020, p. 13. This point was also made by Mr Ian Smith, South Australia/Northern Territory Branch Secretary, Transport Workers Union, *Committee Hansard*, 25 November 2020, p. 18.

⁵⁵ Queensland Trucking Association, *Submission 69*, p. 9.

⁵⁶ Mr Jerry Brown-Sarre, *Submission 9*, p. 1.

⁵⁷ Mr Richard Olsen, New South Wales Branch Secretary, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, p. 15.

Chapter 2

Work health and safety across the road transport sector

- 2.1 Scrutiny of the road transport sector is largely focused upon the risk-taking behaviours of drivers, with mechanisms in place that seek to minimise or eliminate unsafe work practices. Whilst interventions on behalf of governments and regulators that target risk taking behaviours are principled, they fail to address the underlying systemic causes of such behaviours.
- 2.2 A significant amount of research has shown that poor safety outcomes in the road transport sector are caused by economic and contracting pressures. Without addressing these pressures experienced by drivers, poor safety outcomes across the road transport sector will remain. According to the Transport Workers' Union of Australia (TWU), efforts to address these behaviours such as education campaigns and punitive measures, whilst well intentioned, have limited impact when 'underlying structural causes of such behaviour' are overlooked.¹
- 2.3 This chapter considers work health and safety, and the various manifestations of risk-taking behaviour within the road transport sector. This chapter then considers the underlying economic pressures that cause such behaviours and highlights the importance of safe rates of pay and standards to address work health and safety issues.

Work health and safety

- 2.4 The implementation, regulation and enforcement of work health and safety (WHS) laws is the responsibility of Commonwealth, state and territory authorities.
- 2.5 At the Commonwealth level, Safe Work Australia leads national policy on work health and safety. Safe Work Australia developed model laws in 2011 to afford all workers in Australia the same protections. These have been introduced in all states and territories except Victoria and Western Australia.²
- 2.6 National priorities are set according to the Australian Work Health and Safety Strategy 2012–2022. The road transport industry is recognised as a priority area under the strategy due to its high rates of injury and fatalities. The strategy seeks to reduce the numbers of fatalities in the industry by at least 20 per cent

¹ Transport Workers' Union of Australia, *Submission 126*, p. 14.

² Safe Work Australia, *Submission 80*, pp. 1–2; Safe Work Australia, answers to questions on notice, 28 April 2021 (received 11 May 2021), p. 1.

and workers' compensation claims, especially for musculoskeletal disorders, by 30 per cent.³ Representatives from Safe Work Australia reported to the committee that 'in general terms, the targets have been met' or are on track to be met.⁴

2.7 Safe Work Australia explained responsibilities under the WHS laws:

Vehicles used for work purposes are considered a workplace and that means the model WHS laws apply. It is important for all [people conducting a business or undertaking] and workers to be aware of the hazards of driving vehicles and working around them. Those with a WHS duty need to ensure they have systems and processes in place to eliminate the risks or minimise them as far as reasonably practicable.⁵

Risk profile

2.8 The transport and logistics industry is one of the highest risk industries for work-related injury and disease in Australia. Safe Work Australia identified a number of the hazards characteristic of the industry:

- **Time pressures.** Tight deadlines within the transport industry can make drivers feel pressured to speed and skip breaks.
- **Environmental factors.** Bad weather, poor road surfaces, limited visibility, sun position and the unpredictability of other road users can all impact on driver safety on the road.
- **Shift work, fatigue and physical fitness.** Shift work is common in the road transport industry and working irregular hours can cause fatigue and have adverse effects on health and safety. Transport work, especially driving, offers workers only brief periods of physical activity, for example when they are loading and unloading. This means workers are at a higher risk of being overweight or obese, are less active and sit for long periods.
- **Poor vehicle design.** Transport drivers' workplace is their vehicle, and so the design of the seat and vehicle controls as well as the duration and frequency they drive will affect their risk of musculoskeletal discomfort. Poor vehicle design and driving over rough roads can increase exposure to vibration, which increases risks for disorders to the musculoskeletal system and organs.
- **Manual handling of heavy weights.** Loading and unloading vehicles often involves lifting heavy weights.
- **Working at height.** Drivers of trucks regularly climb onto and off their vehicle and falls are a cause of serious incidents. If the worker is required to access the load from the top of the vehicle, appropriate fall protection needs to be in place.

³ Safe Work Australia, *Submission 80*, p. 1.

⁴ Ms Meredith Bryant, Branch Manager, Evidence and Strategic Policy Branch, Safe Work Australia, *Committee Hansard*, 28 April 2021, p. 54.

⁵ Safe Work Australia, *Submission 80*, p. 3.

- **Gases and fume exposure.** Workers in the transport industry are more likely to report being exposed to airborne hazards such as gases and fumes than workers in other industries.⁶
- 2.9 Safe Work Australia reported that an examination of 4200 serious workers' compensation claims in the road transport industry over the five years to 2017–18 found a frequency rate of 9.9 serious claims per million hours worked compared to the all-industries rate of 5.7. Road freight transport accounted for 83 per cent of all serious workers' compensation claims, with road passenger transport accounting for the remaining 17 per cent. The main causes of serious injury were muscular stress from handling objects and falls.⁷ On a positive note, Safe Work Australia reported that the rate of serious claims has been trending downwards and fell by 34 per cent in the last decade.⁸
- 2.10 The Driving Health Study by the Monash University Insurance Work and Health Group also examined workers' compensation claims in the transport and logistics industries and found that the majority of time off work was due to psychological stress and musculoskeletal conditions. It found that truck drivers were 3.8 times more likely to suffer fractures than other workers, older drivers had high rates of hearing loss, and that truck drivers were significantly higher users of painkiller medications than other workers.⁹
- 2.11 A complication for the road transport industry is that a large proportion of the industry is made up of independent contractors or operators who are unlikely to be covered by compensation schemes. They also do not appear in the workers compensation injury statistics.¹⁰
- 2.12 Figure 2.1 shows that the road transport industry fatality number and rate from all causes has declined significantly since the peak of 62 deaths (26.4 fatalities per 100,000 workers) in 2007.
- 2.13 An analysis of road transport industry worker deaths between 2014 and 2019 found that the industry accounted for 20 per cent of all worker fatalities in Australia over that period. Furthermore, the road transport industry fatality rate was 13.2 per 100,000 workers averaged over 2015–19, nine times the total Australian worker fatality rate of 1.4. Ninety-five per cent of the industry deaths occurred in the road freight transport sector.¹¹ A breakdown of causes of death is indicated in table 2.1.

⁶ Safe Work Australia, *Submission 80*, p. 3.

⁷ Safe Work Australia, *Submission 80*, pp. 5–6.

⁸ Ms Kyra Hutchison, Director, Data and Research, Injury Fatalities and Surveys, Safe Work Australia, *Committee Hansard*, 28 April 2021, p. 55.

⁹ Monash University, Insurance Work and Health Group, *Submission 53*, pp. 2–4.

¹⁰ Safe Work Australia, *Submission 80*, pp. 5–6.

¹¹ Safe Work Australia, *Work related traumatic injury fatalities, Australia*, 2019, pp. 14, 15, 20.

Figure 2.1 Worker fatalities – number and rate—road transport, 2003–2019

Source: Safe Work Australia, answers to questions on notice, 28 April 2021 (received 11 May 2021), p. 5.

Table 2.1 Worker fatalities in road transport industry groups by mechanism of incident, 2014-18 (combined)

Industry group and mechanism of incident	No. of fatalities	% of fatalities
Road freight transport	174	95%
Vehicle collisions	131	72%
Being hit by moving objects	15	8%
Being hit by falling objects	8	4%
Being trapped between stationary and moving objects	6	3%
Falls from a height	3	2%
Other mechanism	11	6%
Road passenger transport	9	5%
Vehicle collisions	6	3%
Other mechanisms	3	2%
5-year total	183	100%

Source: Safe Work Australia, *Work related traumatic injury fatalities, Australia, 2019*, p. 15.

* Vehicle collisions include fatalities that occurred as a direct result of a vehicle crash. Vehicles include not only road vehicles such as cars and trucks, but also machines such as aircraft, boats, loaders, tractors and quad bikes.

** Being hit by moving objects includes fatalities involving pedestrians hit by vehicles, as well as being hit by other moving equipment or objects.

Note: The percentages shown in this table have been rounded to the nearest whole number; therefore, the sum of the percentage figures for each column may not equal the total.

Health outcomes and risk taking behaviour

- 2.14 The indicators of systemic issues within the road transport sector manifest as risk taking behaviours and poor health outcomes. Whilst these behaviours and health issues are symptomatic of the overarching economic pressures, reporting of road transport incidents typically focus and place blame upon the behaviour of individual drivers rather than underlying causes.
- 2.15 Some of the primary health issues and problematic behaviours experienced by those working in the road transport industry are detailed below.

Fatigue

- 2.16 There is widespread understanding of the risk of fatigue and its impact on road transport drivers. Fatigue in the road transport industry has been associated with around one in ten major heavy vehicle crashes.¹² Night driving, extended work hours, highway boredom, health and emotional issues and driving conditions are some of the factors that can contribute to fatigue.
- 2.17 The leading cause of fatigue within the road transport sector is the excessive hours of work required of drivers. A 2001 study by the National Transport Commission found one-quarter of drivers were breaking working hours regulations for every trip and over half of drivers reported breaking working hours regulations for at least half of their trips. The study found the reasons for such behaviour were due to drivers wanting to return home (46.8 per cent), to gain more work to earn a living (36.5 per cent) and a result of tight schedules (31.4 per cent).¹³
- 2.18 One of the cited causes of fatigue across the sector is the pressure upon drivers to maximise the hours to compensate for 'low levels of remuneration'. The TWU referenced research that those drivers subject to the 'payment-by-results' method for compensation were twice as likely to report being fatigued for half of their trips than those drivers paid on an hourly rate. This method, also known as contingent payment systems, accounted for 82.3 per cent of drivers across the road transport sector in Australia in 2001.¹⁴
- 2.19 Research has shown drivers subject to the payment-by-result method or who are self-employed are more at risk of a workplace death. A 2013 study by Safe Work NSW reported that self-employed workers across the transport, postal and warehousing industry who were subject to the payment-by-result remuneration method had a fatality rate of 13.68 per 100,000 road transport workers. This figure was 27 per cent higher than those workers classified as

¹² Productivity Commission, *National Transport Regulatory Reform, Productivity Commission Inquiry Report*, No. 94, 7 April 2020, p. 156 citing National Truck Accident Research Centre, *Major Accident Investigation Report*, 2019, p. 17.

¹³ Transport Workers' Union of Australia, *Submission 126*, p. 29.

¹⁴ Transport Workers' Union of Australia, *Submission 126*, p. 18.

employees. The study also found self-employed workers from the sector had the highest fatality rate, accounting for 28 per cent of all self-employed fatalities.¹⁵

- 2.20 Problematic work practices leading to increased risk of fatigue were also identified in a 2017 study by Macquarie University. This study reported one in ten truck drivers worked over 80 hours per week, with those drivers subject to the expectation they drive to the 'limit of their working hours'.¹⁶
- 2.21 To demonstrate the issue of fatigue throughout the road transport sector and the inequality of fatigue enforcement measures, the TWU provided a case study into a 2012 Queensland Department of Transport and Main Roads (TMR) investigation into Blenners Transport. The company was subject to 740 charges of fatigue breaches, all of which the company contested. The TWU reported that despite the charges, Blenners Transport maintained its safety accreditation with the National Heavy Vehicle Regulator (NHVR) and the Australian Transport Association (ATA) throughout the TMR investigation.¹⁷
- 2.22 On the contrary, over 150 charges were laid against 45 individual drivers working for the company, who all pleaded guilty. Fines of over \$65,000 were issued to the drivers, and '[n]o investigations were commenced into the clients which engaged Blenners to ascertain if the costs and conditions allowed goods to be transported safely'. A former operations manager of the company described that the level of fatigue experienced by drivers was 'on an unprecedented level' and added that he 'was sacked because [he] put it in writing that the trucks were breaking the law'.¹⁸
- 2.23 Between August and June 2017, the TMR consequently dropped the charges against Blenners Transport. In a statement to the media, TMR advised the decision was made 'after consideration of specific matters such as the progress of the litigation up to that point, that the relevant legislation in issue has now been repealed, and the level of Blenners compliance since the litigation first commenced'.¹⁹
- 2.24 One year later, in September 2018, two Blenners Transport trucks collided head-on whilst travelling along the Kennedy Highway near Mareeba. The two drivers of the trucks were killed.²⁰

¹⁵ Transport Workers' Union of Australia, *Submission 126*, p. 18.

¹⁶ Transport Workers' Union of Australia, *Submission 126*, p. 18.

¹⁷ Transport Workers' Union of Australia, *Submission 126*, p. 19.

¹⁸ These comments were made as part of the 2014 ABC Four Corners investigation.

Transport Workers' Union of Australia, *Submission 126*, p. 19.

¹⁹ Transport Workers' Union of Australia, *Submission 126*, p. 19.

²⁰ Transport Workers' Union of Australia, *Submission 126*, p. 19.

- 2.25 A 2020 coroner's report into the incident found one driver had large amounts of methylamphetamine in his system and had changed lanes into the path of the oncoming truck. The report noted that the driver was a known user of the drug and had personal and sleep problems. In the weeks before the crash, management of Blenners had noted the driver sleeping in his truck during work hours, and on the morning of his death the driver had complained about being tired. Despite these factors being considered by the coroner, it found Blenners 'bore no responsibility for the crash and faced no prosecution'.²¹ Similarly, the NHVR advised Blenners that it had not contravened National Heavy Vehicle Legislation, whilst the ATA issued Blenners Transport with an award for its 'great perseverance, strength and success' and was inducted into Kenworth Legends.²²
- 2.26 Fatigue is also commonly cited in the media and by police as the reason for road transport accidents. This type of investigation and reporting inadvertently places blame for such incidents upon individual drivers rather than focusing on the underlying causes for drivers to drive whilst fatigued.²³

Fatigue and technology

- 2.27 Technology is often referenced as the solution to the problem of fatigue. However, the TWU argued the application of technology does not address the underlying causes of driver fatigue and other poor safety outcomes (rates of pay, work pressures and contracting practices). The TWU submitted that 'technology gives the illusion that the problem of fatigue is being addressed when in reality it can be entirely ignored'.²⁴ The TWU also made reference to drivers' concerns about privacy and the covert use of technology to monitor drivers' activities. Fatigue management through the use of technology is further discussed in Chapter 7. Consideration of a national framework for managing fatigue is considered in Chapter 4.

Drug use

- 2.28 As demonstrated in the TWU's case study, a combination of excessive hours of work, a high pressure work environment and fatigue can lead to an increased likelihood of drug use within the road transport sector. Indeed, two national surveys from 1991 and 1998 have demonstrated the prevalence of drug use within the transport industry as a strategy for managing fatigue.²⁵

²¹ Transport Workers' Union of Australia, *Submission 126*, p. 19.

²² Transport Workers' Union of Australia, *Submission 126*, p. 20.

²³ Examples of this type of media reporting were provided by the Transport Workers' Union. See Transport Workers' Union of Australia, *Submission 126*, 21.

²⁴ Transport Workers' Union of Australia, *Submission 126*, p. 20.

²⁵ Transport Workers' Union of Australia, *Submission 126*, p. 23.

- 2.29 The 2001 *Report of inquiry into safety in the long-haul trucking sector* came to the ‘firm conclusion’ that drug use was widespread within the industry but was not able to determine the precise level of use. The report noted that ‘prolonged sleep deprivation/fatigue and drug use may not only increase the risk of truck crashes but also will have long- term health effects on the drivers affected’. The TWU pointed out that the report made a link between ‘payment by result’ remuneration and the increased use of stimulant drugs.²⁶

Speeding

- 2.30 Speeding is another risk taking behaviour recognised across the road transport sector. Similar to other behaviours, the TWU emphasised that it is a ‘result of pressure to take on more work and meet unrealistic deadlines’. The TWU referenced a study that found at least 55 per cent of heavy vehicle truck drivers had received at least one speeding fine.²⁷

Workers’ physical and mental health

- 2.31 Road transport drivers are also more likely to experience chronic levels of poor health. A 2018 Monash University study titled *Work-related injury and disease in Australian truck drivers* (the 2018 Monash study) found truck drivers were reportedly more at risk of work-related injuries and disease, with over 120,000 accepted compensation claims made between 2004 and 2015. These claims amounted to over one million lost weeks of work. The study also found that 17 per cent of working time loss was a result of vehicle crashes, with the remaining 83 per cent due to other causes (slips and trips, falls, noise, physical and psychological stress).²⁸
- 2.32 The 2018 Monash study also reported that long-haul truck drivers were more exposed to comorbidity issues, such as long working hours, sedentary roles, poor nutrition, social isolation, shift work, time pressure, low levels of job control and fatigue. The study added that ‘[t]ruck drivers are exposed to a variety of occupational stressors such as constant time pressures, social isolation, disrespectful treatment from others, driving hazards and violence or fear of violence’. Other examples of poor health outcomes include that:

²⁶ Transport Workers’ Union of Australia, *Submission 126*, p. 23.

²⁷ Transport Workers’ Union of Australia, *Submission 126*, p. 29.

²⁸ A major contributor to compensation claims is musculoskeletal injuries and fractures, which makes up the bulk of accepted claims. Mental health issues were found to be another major contributor, with half of the drivers presenting with mental health issues absent from work for ten weeks or longer.

Transport Workers’ Union of Australia, *Submission 126*, p. 22; Xia, T., Illes, R., Newnam, S., Lubman, D., and Collie, A. *Driving Health Report No 2: Work-related injury and disease in Australian truck drivers*, Insurance Work and Health Group, Faculty of Medicine Nursing and Health Sciences, Monash University (2018).

- fifty four per cent of truck drivers are obese, compared to 32 per cent of the general population;
 - thirty per cent of truck drivers have three or more diagnosable medical conditions compared to just eight per cent of the general population;
 - half of all truck drivers reported experiencing some form of psychological distress;
 - one in five truck drivers under the age of 35 experience 'severe psychological distress' compared to one in nine in the general population; and
 - thirty four per cent of male truck drivers experienced back problems compared to just 17 per cent of Australian males.²⁹
- 2.33 In 2020, Monash University released a *Driving Health Survey* that sought to understand the physical and mental health of 1390 Australian professional drivers. The survey revealed that nearly 30 per cent of the drivers reported being diagnosed with more than two mental health conditions, compared to 7.8 per cent of the general population. As noted in the previous paragraph, mental health issues were even more pronounced in younger drivers where one in five drivers aged under 35 reported 'severe' levels of psychological distress compared to one in nine in members of the general population of the same age group.³⁰
- 2.34 Of most concern is the tragically high rate of suicide amongst truck drivers. In a study led by Deakin University, it was reported that 323 truck drivers committed suicide between 2001 and 2010. A TWU analysis of reports by the Victorian coroner showed truck drivers 'had the highest number of suicides out of any other profession, with 53 drivers taking their own lives between 2008 and 2014'.³¹

Overall awareness of work health and safety issues

- 2.35 In 2015, Safe Work Australia released a synthesis of research findings that revealed many of the issues experienced within the road transport sector. The report found the industry received more safety training than other industries and that workers were well-informed of WHS matters. Despite sector participants being well-informed of the risks associated with the road transport sector, the report also found 'widespread risk-taking and that safety rules are ignored in comparison to other industries'.³² When compared to other

²⁹ Transport Workers' Union of Australia, *Submission 126*, p. 22.

³⁰ Monash University, Insurance Work and Health Group, *Supplementary submission 53.2, Driving Health Study: Survey of the physical and mental health of Australian professional drivers*, November 2020, p. 5.

³¹ Transport Workers' Union of Australia, *Submission 126*, p. 23.

³² Transport Workers' Union of Australia, *Submission 126*, p. 14.

industries, the report found transport industry workers were more likely to accept risk-taking behaviour, rule breaking and minor incidents.³³ It concluded that the primary issue was not a lack of understanding of safety rules and obligations, but rather that risk-taking behaviour was driven by 'other factors' that push drivers 'to ignore safety rules and take risks'.³⁴

- 2.36 The Transport and Logistics Centre highlighted the work of Associate Professor Louise Thornthwaite, who maintained that a failure to understand the reasons injuries occurred in the industry was holding back efforts to make workplaces safer. Dr Thornthwaite recommended improving knowledge of the causes of risk and injury throughout the chain of responsibility; improving the collection of data on the incidence of workplace injury and illness, especially of owner drivers and sub-contractors; simplifying work health and safety regulations; improving the enforcement of work health and safety breaches; and ensuring drivers have appropriate skills to increase their understanding of risks and hazard prevention.³⁵
- 2.37 The TWU identified the lack of a mandatory, formal safety induction training program as a significant gap in road transport industry work health and safety when compared to the construction and rail industries. It further observed:

While the road transport industry has developed a universally recognised and nationally accredited safety training unit in the form of 'BlueCard' through the Transport Education Audit Compliance Health Organisation (TEACHO), the credential is currently not compulsory. This is neither effective nor efficient, resulting in some road transport workers receiving no induction training upon entering the industry, while other workers are provided multiple variants of such inductions unnecessarily.³⁶

³³ Key figures include:

twenty per cent of transport industry employees agreed they broke safety rules to complete work on time when compared to other industries (6 per cent);

twenty per cent of transport industry employees agreed minor incidents are a normal part of daily work compared to 10 per cent or less in other industries;

ten per cent agreed that they accept dangerous behaviour as long as there are no accidents compared to less than two per cent in other industries;

forty five per cent of road transport workers agreed that risks were unavoidable whilst only 15 per cent agreed with the statement; and

forty per cent of workers agreed that their workplace does not suit those overly concerned about being injured, with only 20 per cent agreeing with the statement.

Transport Workers' Union of Australia, *Submission 126*, p. 14.

³⁴ Transport Workers' Union of Australia, *Submission 126*, p. 14.

³⁵ Transport and Logistics Centre, *Submission 89*, pp. 3–5 summarising Associate Professor Louise Thornthwaite, *Evaluating the regulation of WHS through supply chain codes of conduct in the retail transport and logistics industry*, Macquarie University, 2019.

³⁶ Transport Workers' Union of Australia, *Submission 126*, p. 46.

- 2.38 Education and training measures, including the TEACHO's BlueCard system, are considered in Chapter 5.

Fitness to drive

- 2.39 Toll Group submitted that a broader perspective should be taken on driver health and well-being, given the aging workforce and sedentary work within the industry. Examination of the company's on-road and driver fatalities revealed that twelve per cent were caused by non-work-related issues and in particular, cardiovascular health.³⁷
- 2.40 Toll Group expressed reservations at the current guidelines, *Assessing Fitness to Drive*, which are currently being reviewed by the National Transport Commission³⁸:

The approach to cardiovascular health in *Assessing Fitness to Drive* (AFTD) is limited in that it largely relies on driver self-report, does not include screening for diabetes or hyperlipidaemia, and does not include an ECG. This may account for why many drivers that die because of cardiovascular disease have no prior knowledge of the presence of the condition.³⁹

- 2.41 Toll Group supports mandating a fitness for duty standard in the road transport sector, as occurs in rail, maritime and aviation sectors.⁴⁰ The Australian Trucking Association proposed that 'drivers should have regular medicals against upgraded fitness for duty standards'.⁴¹
- 2.42 Dr Ross Iles stressed the multifactorial nature of both the problem and the solution:

While increasing the capacity of drivers to cope with the demands of the job—such as encouraging healthy eating and providing accessible and understandable mental health resources—is important, it cannot be the only strategy for ensuring the ongoing health and safety of drivers in the transport industry. Things like access to healthy food on the road, regulations that provide drivers with some control over their work and steps that prioritise the needs of drivers as being more important than, for example, the need to be on time—these things need to be done in a coordinated fashion across the industry for the industry to cope in the future. What we see from this health profile is that it's not sustainable.⁴²

³⁷ Toll Group, *Submission 76*, p. 15.

³⁸ National Transport Commission, <https://www.ntc.gov.au/transport-reform/ntc-projects/assessing-fitness-drive-guideline-review> (accessed 12 April 2021).

³⁹ Toll Group, *Submission 76*, p. 15.

⁴⁰ Toll Group, *Submission 76*, p. 15.

⁴¹ Australian Trucking Association, *Submission 91*, p. 9.

⁴² Dr Ross Iles, Senior Research Fellow, School of Public Health and Preventive Medicine, Monash University, *Committee Hansard*, 20 April 2021, p. 18.

Underlying causes of risk taking behaviour

2.43 The common thread between drivers' health and risk taking behaviours is pressure imposed upon truck drivers by their clients particularly those at the apex of the supply chain. These major clients 'set the prices for transport operators and drivers across the transport industry' and 'have the power to set standards in a way which determines safety outcomes'. These major clients encompass major retailers, manufacturers, oil companies, stevedores and freight forwarders.⁴³

2.44 The TWU's submission outlined the impact of unsustainable economic and contracting pressures caused by the major clients of the transport supply chain, who set rates of pay, and the terms and conditions through tendering cycles. The TWU argued that major clients play a key role in determining sustainable and safe standards across the sector, but lack accountability for not doing so:

Despite having the central ability to determine such standards, major clients have little accountability for the standards which they do set even where...such standards have unsustainable and dangerous implications for the transport industry.⁴⁴

2.45 The primary reasons for unsustainable economic and contracting practices according to the TWU are the 'large power imbalance between industry participants in the transport supply chains and the highly competitive nature of the transport market'. This dynamic forces transport operators and drivers to accept commercially unviable rates and terms and conditions to try and sustain their livelihoods and cover costs. Other factors include low barriers of entry into the sector and a high-number of sole-proprietors in the industry, which ultimately results in the forced 'acceptance of non-viable rates excessive and illegal working hours, and stressed and chronically fatigued drivers'.⁴⁵

2.46 Compounding these issues are lowering of contract values and onerous contract terms, such as 120 day payments resulting in tight margins and low capital flows. Whilst payment rates decline, costs imposed upon the road transport sector (such as vehicle maintenance, road access charges, real estate and fuel costs—see *Cost recovery measures* for further information) continue to rise, leveraging service providers to continue to 'reduce their margins to unsustainable levels or pass on these dangerous pressures further down the transport supply chains'. A hyper-competitive market has led to major transport operators contracting out transport functions on a cost-competitive basis, resulting in 'the development of extreme competition in the industry

⁴³ Transport Workers' Union of Australia, *Submission 126*, p. 31.

⁴⁴ Transport Workers' Union of Australia, *Submission 126*, p. 31.

⁴⁵ Transport Workers' Union of Australia, *Submission 126*, p. 31.

beyond otherwise economically beneficial limits; where low prices are the primary determinant of securing enough work to continue to operate'.⁴⁶

- 2.47 Ultimately it is those providers at the very last link in the transport supply chain that are the most vulnerable to these market pressures, whom are faced with the 'dangerous choice of engaging in unsafe practices, such as driving for too long, in order to cover their costs and provide a living for themselves and their family'.⁴⁷

Safe rates of pay and standards

- 2.48 The committee heard from a number of submitters and witnesses that heavy vehicle road safety was directly linked to low remuneration of truck drivers, especially those working as subcontractors. The International Labour Organization submitted that after 'an extensive review of all the literature that links pay and safety'⁴⁸, this link had now been internationally recognised, with new International Labour Organization *Guidelines on the promotion of decent work and road safety in the transport sector* stating:

Pressure from supply chain entities can be an underlying cause of transport workers adopting riskier and unsafe driving practices. Sometimes, existing laws and enforcement mechanisms address drivers without directly reaching those entities that are at the root of these practices.⁴⁹

- 2.49 The causal economic and contracting pressures acting on drivers, according to the TWU, included low rates of pay, incentive-based schemes, unpaid work, poor queuing practices that reduced opportunities for drivers to rest and unsustainable work intensification.⁵⁰
- 2.50 Emeritus Professor Michael Quinlan tabled a document which summarised extensive academic research stretching over a 40-year period that supported the 'relationship between payment systems/levels, subcontracting and an array of OHS outcomes in the road transport industry' including crashes, injuries, drug use and hazardous behaviour.⁵¹
- 2.51 In evidence, Emeritus Professor Quinlan informed the committee that physical and mental health issues of drivers had also been linked to pay systems.⁵²

⁴⁶ Transport Workers' Union of Australia, *Submission 126*, p. 31.

⁴⁷ Transport Workers' Union of Australia, *Submission 126*, p. 32.

⁴⁸ Ms Alejandra Cruz Ross, Transport Specialist, International Labour Organization, *Committee Hansard*, 28 April 2021, p. 63.

⁴⁹ International Labour Organization, *Submission 122*, pp. 2, 22.

⁵⁰ Transport Workers' Union of Australia, *Submission 126*, pp. 3, 6.

⁵¹ Emeritus Professor Michael Quinlan, Statement and academic paper (tabled 9 February 2021), p. 21.

⁵² Emeritus Professor Michael Quinlan, *Committee Hansard*, 9 February 2021, p. 8.

Quinlan concluded that to avoid significant adverse effects on health and safety required 'a reasonable level of pay in the industry, irrespective of employment status, so that owner-drivers get a reasonable return and small companies are not squeezed'.⁵³

2.52 Dr Michael Belzer reported to the committee on a number of studies from the United States that showed that increasing the pay of truck drivers and paying for all non-driving work time, led to drivers working fewer hours and a lower frequency of accidents. Dr Belzer also reported on his analysis of 1997–98 driver survey data which tested the 'target earnings hypothesis', that drivers increase their work time until they reach target earnings needed to pay their bills and that if they earn above target earnings they work fewer hours, leading to greater highway safety. Dr Belzer concluded that a safe rate which would induce a driver to work the 60 hours per week worked by the median employee driver in the United States in 2010 was 60 cents per mile (in 2017 US dollars).⁵⁴

2.53 Several inquiry participants shared their observations of the detrimental effect of incentives on transport workers. Mr Chris Roe from Roe's Holdings argued that freight companies compete hard on price but then expect the subcontractor to take the reduction in rate to carry the operation out:

Any system of Awards and Rates must involve the removal of de facto incentives to work longer or faster or to carry more in an effort to compensate for an inadequate remuneration system. Enforcement will ensure prime contractors that competitors can't underquote on the basis of cheap subcontractors.⁵⁵

2.54 The solution to the safety crisis in the industry, according to Mr Richard Olsen of the Transport Workers' Union of New South Wales, was safe rates of pay and conditions:

Same job, same pay ensures safety rates for workers. These objectives cannot be achieved unless the federal government legislates change in the road transport industry and ensures its rigorous enforcement. History has proven that too many everyday Australians fall victim to self-regulation. The transport industry needs firm and decisive action from the federal government to ensure road transport workers can safely continue to keep Australia moving.⁵⁶

2.55 Dr Michael Rawling submitted in favour of a new national road transport legislative scheme which was binding and enforceable on the whole national

⁵³ Emeritus Professor Michael Quinlan, *Committee Hansard*, 9 February 2021, p. 8.

⁵⁴ Dr Michael Belzer, *Committee Hansard*, 28 April 2021, pp. 2–4.

⁵⁵ Roe's Holdings, *Submission 44*, p. 5.

⁵⁶ Mr Richard Olsen, New South Wales Branch Secretary, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, p. 16.

supply chain for minimum wages and conditions, applied to all transport workers including owner drivers and gig economy drivers and paid workers for all working time. Dr Rawling emphasised that effective legislation would require a high level of agreement among employers, drivers, trade unions and governments.⁵⁷

- 2.56 Several witnesses expressed the view that there should be a chain of responsibility for wages. The concept was explained by Mr Gordon Mackinlay, president of the National Road Freighters Association:

John Smith might want to move a load of apples from Batlow to the Sydney market. He talks to this transport company, and they can't do it because all their trucks are busy carting things. So he gives it to this bloke and then he gives it to the next bloke. By the time it gets down old Fred, who actually jumps in the truck and carts the freight to market, there's nothing left because they've all taken their percentage out. So the person at the top of the chain under responsibility should have a legal obligation to the bloke who's actually carted the apples to the market to make sure that he's done it with enough money to run profitably, safely and economically viably.⁵⁸

- 2.57 Mr Cameron Dunn, managing director of FBT Transwest, saw a role for a government-funded 'independent umpire' with the power to enforce chain of responsibility for wages to verify whether the right rates of pay were going to the actual driver and that maintenance and insurances were in place.⁵⁹

- 2.58 Some submitters advocated reinstating a dedicated transport industry body along the lines of the Road Safety Remuneration Tribunal (RSRT) where company or owner driver contracts could be audited and investigated.⁶⁰ Mr Ian Smith, secretary of the Transport Workers' Union South Australia/Northern Territory Branch, stated:

From my perspective, we need a body or legislation that enables some enforceable rights, so if we have found that a client at the top of the supply chain is paying a rate that's unsustainable and unsafe, that there's the ability of somebody to make an order against that particular company, that they must up the ante and play the ball properly and pay a decent rate for whatever it is, and it's enforceable, where we've got somewhere to go—like the RSRT was doing.⁶¹

⁵⁷ Dr Michael Rawling, *Submission 19*, pp. 8–9.

⁵⁸ Mr Gordon Mackinlay, President, National Road Freighters Association, *Committee Hansard*, 22 November 2019, p. 17. See also Mr Chris Roe, Owner Operator, Roe's Holdings, *Committee Hansard*, 22 November 2019, p. 45 and Mr Trevor Warner, *Committee Hansard*, 24 July 2020, pp. 12–13.

⁵⁹ Mr Cameron Dunn, Managing Director, FBT Transwest, *Committee Hansard*, 20 April 2021, p. 51.

⁶⁰ See, for example, Queensland Trucking Association, *Submission 69*, p. 5.

⁶¹ Mr Ian Smith, Branch Secretary, Transport Workers Union South Australia/Northern Territory Branch, *Committee Hansard*, 25 November 2020, p. 24.

2.59 Mr Hugh McMaster of the Australian Road Transport Industrial Organisation (ARTIO) expressed the view that the industry needed a body to consider 'all elements of the commercial working relationship between parties along the chain'. That is, road law, industrial law and work health and safety law. In Mr McMaster's view the RSRT had the capability to provide a model for a 'nationally regulated framework to determine pay and conditions for the industry'.⁶² His colleague, Mr Paul Ryan, national industrial adviser, articulated ARTIO's vision more fully:

We suggest the establishment of a transport standards inspectorate to provide appropriate and necessary enforcement mechanisms around the employment and engagement of workers in the road transport industry. This body needs to be able to investigate commercial contracts to ensure proper and fair standards are in place and followed by all participants in the supply chain so that, when something's contracted down two, three or four times and everyone takes their clip, the person down the bottom of that chain, whether it be a transport company or an owner operator, is paid a fair rate for the job that they're doing.⁶³

2.60 Mr Olsen emphasised the need for a national approach to regulation, rationalising that state-by-state regulation would not work when most of the supply chains are national.⁶⁴

2.61 Mr Tim Dawson, branch secretary of the Transport Workers' Union of Western Australia, said that an industry tribunal needed to be one where small or large businesses, owner drivers and employees could go without fear of reprisal. It also needed adequate powers of enforcement to prevent risk-taking activities in the industry:

We have companies that use a risk model to get the job done because they feel if they do get caught, at the end of the day it's worth that risk to try and win contracts. We need to stop that.⁶⁵

2.62 TWU national secretary Mr Michael Kaine added that a body was needed that set and enforced standards, but that also supported employers:

We need a standard-setting body, one that has the power to hold those with the economic grunt to account so they can pay employers properly, so

⁶² Mr Hugh McMaster, Secretary/Treasurer, Australian Road Transport Industrial Organisation, New South Wales Branch, *Committee Hansard*, 8 February 2021, p. 3.

⁶³ Mr Paul Ryan, National Industrial Adviser, Australian Road Transport Industrial Organisation, *Committee Hansard*, 28 April 2021, p. 13.

⁶⁴ Mr Richard Olsen, New South Wales Branch Secretary, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, p. 26.

⁶⁵ Mr Tim Dawson, Branch Secretary, Transport Workers Union of Western Australia, *Committee Hansard*, 26 November 2020, p. 2.

we can stave off the gig-economy tsunami and so that that flows down to drivers so they're paid properly and they stop dying.⁶⁶

- 2.63 The view that rates of pay and safety go hand in hand was challenged by Mrs Janet Cooper of the Livestock and Rural Transport Association of Western Australia who argued that the evidence was not there to suggest that 'even if the rates were higher, owner-drivers would spend that additional money on safety related matters'. But she did agree that 'you shouldn't have to break the law in order to compete' and that instances of undercutting of compliant businesses should come under 'a certain amount of scrutiny'.⁶⁷
- 2.64 The Australian Logistics Council (ALC) similarly argued that there was insufficient evidence that a standard minimum rate 'will in and of itself improve safety across the industry'. The ALC contended that as well as the difficulty in establishing and defining what a safe rate might constitute, the 'idea that there is an arbitrary rate at which drivers will suddenly decide not take safety risks or engage in other irresponsible behaviour is not credible'.⁶⁸
- 2.65 To support its view, the ALC cited the findings of the inquiry conducted by the Australian Small Business and Family Enterprise Ombudsman conducted into the effect of the 2016 RSRT payments order on Australian small businesses, which found that:

Many owner-drivers and small transport operators reported narrow profit margins and financial stress previous to the RSRT and such businesses may have initially welcomed an order that could increase the rates that they received. However, difficulty in securing work before, during and after the Payments Order meant that these operators actually found themselves in a worse financial position than before the Payments Order, with many reportedly continuing to suffer the Payments Order's negative effects on their business and livelihood.⁶⁹

- 2.66 In its submission, the NSW Business Chamber and Australian Business Industrial maintained that 'the assumption that there exists an irrefutable and axiomatic link between methods of payment and/or rates of pay and safety outcomes ... is problematic since all variable and/or incentive-based payment arrangements do not axiomatically give rise to unsafe behaviour'. The submission further argued that the RSRT attempted to 'intrude industrially in the WHS space' and 'was a misalignment of balance in the regulatory scheme

⁶⁶ Mr Michael Kaine, National Secretary, Transport Workers Union of Australia, *Committee Hansard*, 28 April 2021, p. 16.

⁶⁷ Mrs Janet Cooper, Chief Executive Officer, Livestock and Rural Transport Association of Western Australia, *Committee Hansard*, 26 November 2020, p. 19.

⁶⁸ Australian Logistics Council, *Submission 63*, p. 16.

⁶⁹ Australian Logistics Council, *Submission 63*, p. 17 citing Australian Small Business and Family Enterprise Ombudsman, *Inquiry into the effect of the Road Safety Remuneration Tribunal's payments order on Australian small businesses*, September 2016, p. 27.

and an undue interference in legitimate contracting and contractual relationships'.⁷⁰

- 2.67 Management consultant Mr Barry Jenner did not think 'setting minimum rates is a good way to go'. Mr Jenner took the view that anyone in business had to work out what their expenses were and set their rates accordingly in order to make a profit. 'Smart operators', he noted, 'insist on their terms, not those terms proposed by the customer'. He conceded, however, that the barriers to entry in the industry were low and that 'strict policies with safety and compliance' were necessary.⁷¹
- 2.68 The Queensland Department of Transport and Main Roads, in noting the history of contention over the establishment and abolition of the RSRT, suggested that if any recommendations are made by the committee for a similar national scheme aimed at setting minimum safe pay rates for truck drivers, 'consideration should be given to establishing a remuneration framework that has been fully informed by consultation with all stakeholders within industry'.⁷²
- 2.69 Mr Mat Munro, executive director to the Australian Livestock and Rural Transporters' Association, noted that ALRTA had opposed the RSRT in 2016, citing its broad powers, unresponsiveness to feedback and that its orders were not disallowable by Parliament. Mr Munro stated that if a similar body was established, consideration would need to be made as to how it was constituted and consults with industry, what failsafe mechanisms would be required and that its orders were 'mindful of not distorting the market' and 'apply to all freight of a particular nature'.⁷³

⁷⁰ NSW Business Chamber and Australian Business Industrial, *Submission 58*, pp. 34–35.

⁷¹ Mr Barry Jenner, Principal, MSA Consulting, *Committee Hansard*, 20 April 2021, pp. 41, 43.

⁷² Queensland Department of Transport and Main Roads, *Submission 25*, p. 4. See also, Livestock and Rural Transporters Association of Victoria, *Submission 62*, p. 6.

⁷³ Mr Mat Munro, Executive Director, Australian Livestock and Rural Transporters' Association, *Committee Hansard*, 28 April 2021, p. 42.

Chapter 3

Unsustainable commercial practices

- 3.1 The road transport industry is a competitive industry where the clients at the top of the chain—large corporations such as retailers, mining companies and fuel companies which subcontract work to smaller owner-operators—are able to control pricing and exert downward pressure on the smaller operators. As demonstrated in Chapter 2, much of the trucking industry consists of small businesses that struggle to maintain financial viability and must find savings, work longer hours or sacrifice profit to survive.¹
- 3.2 This chapter considers unsustainable commercial practices that manifest as unliveable rates of pay and substandard conditions. The manifestations of such pressures can be seen in the rise of independent contractors and gig economy workers. This chapter also considers the abolished RSRT, followed by discussions about the adequacy of road transport award rates, unpaid wages and the enforcement of awards. Finally, this chapter considers cost recovery measures, operating costs and insolvencies across the road transport industry.

Price or safety?

- 3.3 The 'race to the bottom' on price, and consequent pressure on drivers creates the environment for unsafe work practices across the sector. The situation is enabled by inadequate minimum standards and the absence of a designated and functional enforcement body for the sector. These inadequacies result in unsustainable commercial practices across the industry, and ultimately high rates of insolvencies. Ensuring road transport drivers receive safe rates of pay is one of the primary solutions to the problems that plague the industry, however, this should not 'come at the expense of safety, minimum standards, fair working conditions'.²
- 3.4 Industry participants emphasised the need for minimum standards. Mr Peter Anderson of the Victorian Transport Association, told the committee that the industry could not progress while it continued to undercut its competitors on price rather than compete on service, and argued for a minimum price point:

... what we don't have is a minimum floor. If they knew there was a minimum floor they couldn't go under, for payment to individuals, subcontractors, that would mean they would have to reconfigure how they

¹ Victorian Government, *Submission 78*, p. 3.

² Toll Group, *Submission 76*, pp. 1, 4.

were going to put their proposal forward to gain new work and create a differential.³

- 3.5 Toll Group, the largest operator in the road freight sector in Australia, noted the difficulty in putting the industry on a sustainable footing, given the variety of views across the industry:

The industry is represented by a plethora of state based and national advocacy groups, many advocating for divergent views on policy reform. This combined with multiple overlapping state and federal based regulations has contributed to a very low appetite for reform in Australia.⁴

- 3.6 Furthermore, Toll Group asserted that there has been a 'genuine fear of enacting change that will increase cost' and impact small businesses, possibly leading to business collapses and losses of jobs.⁵ Such fears in part led to the abolition of the Road Safety Remuneration Tribunal (RSRT), which was established in 2012 to protect the pay and conditions of road transport drivers.⁶

- 3.7 The content of this chapter highlights that the absence of an appropriate and functional independent regulatory body has consequences. The role, once undertaken by the RSRT, provides regulatory protection for all commercial operators against the rise of low and incentive-based rates, which create the conditions for unsafe work practices to occur.

- 3.8 According to the Transport Workers' Union of Australia (TWU), commercial practices in the gig economy illustrate the lack of regulatory oversight, and are:

...dangerously compounding the current safety crisis with an unforeseen willingness to forgo profits in order to undercut traditional transport operators and further erode already unsustainable industry standards.⁷

Independent contractors

- 3.9 The road transport industry contains large numbers of workers such as owner operators and gig economy workers who conduct business outside the system of award wages and entitlements. While workers considered to be employees have minimum conditions and entitlements, workers considered independent contractors negotiate their own fees and working arrangements. Commonwealth and state legislation which provides for contractors and on-demand road transport workers is considered below.

³ Mr Peter Anderson, Chief Executive Officer, Victorian Transport Association, *Committee Hansard*, 19 April 2021, p. 4.

⁴ Toll Group, *Submission 76*, p. 4.

⁵ Toll Group, *Submission 76*, p. 4.

⁶ See, for example, Mr Barry Jenner, MSA Consulting, *Submission 11*, p. 3; Australian Livestock and Rural Transporters' Association, *Submission 12*, pp. 7–9.

⁷ Transport Workers' Union of Australia, *Submission 126*, p. 45.

Commonwealth legislation

- 3.10 Independent contractors are offered some protections under federal legislation by the *Fair Work Act 2009* and the *Independent Contractors Act 2006*. The Fair Work Act contains provisions aimed at employers who misrepresent an employment relationship as an independent contracting arrangement (s357), dismiss or threaten to dismiss an employee for the purpose of engaging them as an independent contractor (s358) or make a knowingly false statement in order to persuade or influence an employee to become an independent contractor (s359).⁸
- 3.11 The Independent Contractors Act sets up a national unfair contracts scheme where independent contractors can ask a court to set aside a contract if it is harsh or unfair.⁹

State legislation

- 3.12 There are no specific schemes for the protection of contractor drivers in Queensland, South Australia, the Australian Capital Territory or the Northern Territory. Schemes for the other states are described below.

Victoria

- 3.13 In its submission, the Victorian Government outlined changes it had made to the Victorian *Owner Drivers and Forestry Contractors Act 2005* (ODFC Act) to improve conditions for owner drivers with a maximum of three vehicles who drive one of the vehicles:

A key feature of the ODFC Act is the publication of annual rates and cost schedules for owner drivers. The rates and cost schedules contain base and casual hourly rates that would typically apply to owner drivers if they were performing work as an employee. They do not mandate rates but provide owner drivers and hirers with information about typical operating costs including: vehicle operating costs and costs of registration, finance, administration, insurance and self-funding of superannuation.¹⁰

- 3.14 The Victorian Government further explained that a hirer who intends to engage an owner driver for at least 30 days must provide the owner driver with a copy of the applicable rates and cost schedule and a copy of an information booklet published by the Victorian Government that sets out the legislation and practical information on operating a small business. This obligation also extends to 'persons who provide an online platform to engage

⁸ NatRoad, *Submission 47*, p. 6.

⁹ Fair Work Ombudsman, *Independent contractors*, <https://www.fairwork.gov.au/find-help-for/independent-contractors> (accessed 16 April 2021).

¹⁰ Victorian Government, *Submission 78*, p. 4. See rates and cost schedules made pursuant to the ODFC Act at <https://www.business.vic.gov.au/setting-up-a-business/support-for-transport-and-forestry-small-businesses/owner-drivers/tip-truck-owner-drivers>.

drivers'.¹¹ The application of chain of responsibility legislation to online freight platforms under the national law is discussed in chapter 4.

3.15 The ODFC Act provides a framework for resolving disputes that, according to the Victorian Government, is 'fast, low cost and binding'.¹² There is also a code of practice to govern the relationship between owner drivers and hirers.

3.16 In the view of the New South Wales Business Chamber and Australian Business Industrial, the ODFC Act:

... in providing for the publication of a code of practice, which outlines the behavioural expectations applicable to parties when bargaining for new contracts is usefully informative without being unduly restrictive or perverting reasonable commercial dealings.¹³

3.17 The ODFC Act also sets up the Victorian Transport Industry Council—containing representatives from industry, employee associations and government—to advise on the rates and cost schedules, the code of practice and information booklet.

3.18 While these reforms have strengthened protections for owner drivers in Victoria, the Victorian Government noted that 'as Victoria has referred the majority of its industrial relations powers to the Commonwealth, the Victorian Government is limited in the actions it can take to set minimum working conditions'.¹⁴

3.19 The committee also heard evidence that there was a lack of enforcement, holes in dispute resolution, and a lack of bargaining rights existing through the supply chain.

New South Wales

3.20 Mr Hugh McMaster, secretary/treasurer of the Australian Road Transport Industrial Organisation (ARTIO), at his appearance before the committee explained that in New South Wales, chapter 6 of the *Industrial Relations Act 1996* provides for owner drivers, called contract carriers 'to make application to have contract determinations as industrial instruments'. This allowed owner drivers to 'negotiate terms and conditions with the union, in a traditional Australian conciliation and arbitration framework'.¹⁵

¹¹ Dr Michael Rawling and Professor Joellen Riley Munton, *Proposal for legal protections of on-demand gig workers in the road transport industry*, Final report, January 2021, p. 17.

¹² Victorian Government, *Submission 78*, p. 6.

¹³ NSW Business Chamber and Australian Business Industrial, *Submission 58*, p. 34.

¹⁴ Victorian Government, *Submission 78*, p. 8.

¹⁵ Mr Hugh McMaster, Secretary/Treasurer, Australian Road Transport Industrial Organisation, New South Wales Branch, *Committee Hansard*, 8 February 2021, p. 2.

- 3.21 The ARTIO added that contract determinations have been made to cover interstate drivers as well as other industry sectors including 'general cartage, courier and taxi work, waste work, concrete agitating, excavating materials and quarried materials'.¹⁶
- 3.22 Mr Richard Olsen of the TWU of NSW clarified that the legislation allows for contract agreements between principal contractors and contract carriers who work exclusively for them, similar to an enterprise agreement. The agreements set enforceable minimum standards and conditions and rates are subject to review and adjustment. As at February 2021, a revision of the determinations for courier and taxi truck contracts and general carrier contracts was in progress.¹⁷

Western Australia

- 3.23 The Western Australian owner driver legislation, the *Owner-Drivers (Contracts and Disputes) Act 2007*, sets the rights and responsibilities for hirers and owner drivers. A code of conduct specifies recommended rates for heavy vehicle owner drivers and obliges hirers to provide owner drivers with information about the recommended rates to drivers they employ. Owner drivers are paid within 30 days of submitting a payment claim. Drivers and hirers can apply to a tribunal for dispute resolution.¹⁸

Owner drivers

- 3.24 The road transport industry predominantly consists of a large number of small owner driver businesses, many of whom operate only one truck.
- 3.25 A variety of views were presented to the committee on legislative provisions for owner drivers. NatRoad emphasised that its subcontractor members do not require 'the paternalistic protection of labour laws':

They want to be treated as independent operators of commercial businesses and be free to negotiate their own terms of trade. They hold fiercely to that outlook. Sub-contractors should be regulated by commercial laws rather than by laws which are built on an industrial relations perspective.¹⁹

- 3.26 Possible commercial law solutions to improving the conditions of independent operators proposed by NatRoad included strengthening the unfair contract

¹⁶ Mr Hugh McMaster, Secretary/Treasurer, Australian Road Transport Industrial Organisation, New South Wales Branch, *Committee Hansard*, 8 February 2021, p. 2.

¹⁷ Mr Richard Olsen, Branch Secretary, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, p. 20.

¹⁸ Western Australia Department of Transport, *Owner-drivers Act and Code of Conduct*, <https://www.transport.wa.gov.au/Freight-Ports/overview-of-the-act-and-code-of-conduct.asp> (accessed 9 March 2021).

¹⁹ NatRoad, *Submission 47*, p. 6.

terms provisions for small businesses in the Australian Consumer Law²⁰ and amending the Independent Contractors Act to make the proscription on the undercutting of wages clearer:

This prohibition would have to exclude payments where the independent contractor/owner driver clearly made a commercial decision to accept a lesser rate than the Award prescription because they would otherwise be travelling empty or they were involved with a backload. Hence, informed consent to such an arrangement should override any strengthened provision. That informed consent must have been reduced to writing.²¹

- 3.27 The Australian Livestock and Rural Transporters Association (ALRTA) also feared the loss of competitive advantage for owner drivers who operate as independent contractors if they were to be subject to awards and industrial instruments. Mandating minimum rates, ALRTA argued, would result in the market favouring larger companies with employee drivers over owner drivers. ALRTA stressed the benefits of independent contractual arrangements including 'secure work, more control and better income levels than could be achieved as an employee'. It pointed to section 309(4) of the NSW *Industrial Relations Act 1996* which excludes certain primary producer transport contracts from laws governing owner drivers.²²
- 3.28 The secretary of the Livestock and Rural Transporters' Association of Victoria, Mr Graeme Howell, raised the difficulty of setting a regime of minimum rates in the rural transport sector where the vehicles were highly specialised, back loads rare and work was often based on word-of-mouth, at short notice and dealing directly with farmers or abattoirs.²³
- 3.29 Other submitters and witnesses expressed concerns to the committee that owner drivers had been insufficiently protected since the abolition of the RSRT in 2016 removed their access to enforceable minimum rates and conditions. In its submission to the committee, the Victorian Government observed that owner drivers frequently operate at the bottom of the supply chain:

... owner drivers [are] a vulnerable group who often face low rates of pay, long hours of work, poor business skills, information imbalances and inequitable bargaining positions. High levels of competition in the road transport industry mean that the major players can set the rate they are willing to pay sub-contractors, forcing owner drivers to accept lower margins or lose work.²⁴

²⁰ NatRoad, *Submission 47*, p. 8.

²¹ NatRoad, *Submission 47*, p. 7.

²² Australian Livestock and Rural Transporters Association, *Submission 12*, pp. 7, 9, 10, 23.

²³ Mr Graeme Howell, Secretary, Livestock and Rural Transporters Association of Victoria, *Committee Hansard*, 19 April 2021, p. 36.

²⁴ Victorian Government, *Submission 78*, p. 2.

3.30 Mr Arthur Tzaneros, managing director of ACFS Port Logistics, told the committee that he ran a fleet of 300 trucks and employed 1200 permanent workers. With his own employees on enterprise agreements at 30 per cent above the award wage, he expressed the view that the ability to employ subcontractors with their own trucks and trailers on non-award rates was a 'threat to our broader business' given that he could pay them 'less than what we actually pay our company driver purely in wages'. Mr Tzaneros speculated that in order to earn a 'real wage', subcontractors would need to acquire cheap assets, not maintain their fleets and forego rest breaks.²⁵ Mr Tzaneros stated:

You cannot have someone driving around earning less than the modern award when it comes down to their pure wage after all costs. They have to earn the modern award. Anything below that is dangerous to the individual, dangerous to the sector and dangerous to the economy.²⁶

3.31 Ms Michelle Harwood, executive director of the Tasmanian Transport Association, observed that in Tasmania, the transport and road freight sectors were the industries with the greatest number of new business entrants but that the three-year business survival rate was less than 50 per cent:

... a lot of the time they're people who invest in a truck and offer their services as a subcontractor, but they are generally so busy keeping wheels turning so that they've got some income coming in that they are pushed and really struggle to understand the full operating environment of the transport industry, and possibly the business operations skills that they need ... So the new people are going out of business within three years, but in that year or couple of years they've been able to offer their services at a lower rate, which ultimately hasn't been sustainable and has done damage to the structure of the other operators in the industry.²⁷

3.32 Dr Michael Rawling informed the committee that 'the transport, postal and warehousing industry was one of the top industries for the highest number of business insolvencies in 2018'.²⁸ This in turn, he argued, can lead to drivers engaging in hazardous practices resulting in poor safety outcomes:

Because owner-drivers are paid per kilometre or per load, in some circumstances, owner-drivers may have an incentive to drive faster and longer in order to earn an adequate wage. This can be hazardous and can lead to death and other poor health and safety outcomes in the industry.

²⁵ Mr Arthur Tzaneros, Chief Executive Officer and Managing Director, ACFS Port Logistics, *Committee Hansard*, 29 April 2021, p. 32.

²⁶ Mr Arthur Tzaneros, Chief Executive Officer and Managing Director, ACFS Port Logistics, *Committee Hansard*, 29 April 2021, p. 37.

²⁷ Ms Michelle Harwood, Executive Director, Tasmanian Transport Association, *Committee Hansard*, 29 April 2021, p. 67.

²⁸ Dr Michael Rawling, *Submission 19*, p. 5, citing Australian Securities and Investment Commission, *Corporate insolvencies: December quarter 2018*, table 4, p. 3.

So this is the nub of what the literature calls the link between the pay and safety.²⁹

- 3.33 NatRoad submitted that the lack of training and entry barriers for new operatives was 'hindering the industry's drive towards increased safety objectives' and 'allowing an oversupply of unskilled operators who are not adept at proper costing'.³⁰
- 3.34 Ms Alejandra Cruz Ross, a transport specialist with the International Labour Office, a secretariat of the International Labour Organization (ILO), told the committee that the recently updated ILO *Guidelines on the promotion of decent work and road safety in the transport sector* (ILO Guidelines) 'do not make a distinction between employed drivers and subcontracted drivers, owner-drivers or informal drivers'. By referring to 'commercial motor vehicle drivers', the guidelines 'seek to help with the uncomfortable truth that, in some cases, large industry players might have robust road safety programs and measures for their own few employees that happen to drive while having no road safety programs or measures for all of their subcontracted transport operations'.³¹
- 3.35 The ILO Guidelines stipulate the need for sustainable payments for non-wage-earning drivers through national regulations that ensure:
- ...non-wage earning commercial motor vehicle (CMV) driver contracts are transparent and that invoices or claims for payment are paid within 30 days.
- 3.36 Further, the ILO Guidelines provide that governments, in consultation with social partners and road transport chain parties:
- ...establish mechanisms to encourage predictable cost recovery for non-wage-earning CWV drivers by making provisions to support:
 - (a) recovery of fixed costs — typical fixed or annual business costs that a business must pay each year regardless of how many kilometres a vehicle travels;
 - (b) recovery of variable costs — typical variable business costs, i.e. costs (such as fuel and tyres) that vary with how many kilometres are travelled;
 - (c) payment for personal labour at the national minimum-wage rate or higher;
 - (d) return on investment;

²⁹ Dr Michael Rawling, *Committee Hansard*, 8 February 2021, p. 45.

³⁰ NatRoad, *Submission 47*, p. 7.

³¹ Ms Alejandra Cruz Ross, Transport Specialist, International Labour Organization, *Committee Hansard*, 28 April 2021, p. 61.

- (e) remuneration for both driving and subsidiary non-driving work activities.³²

Sham contractors

3.37 The committee heard that some operators use a 'sham contracting' business model to avoid paying full entitlements to employees. According to the Fair Work Ombudsman, sham contracting occurs:

... when a person working as an employee is told they're an independent contractor when they're not. These types of arrangements can be set up by employers who are seeking to avoid responsibility for paying legal entitlements to employees, such as paid leave and superannuation.³³

3.38 Mrs Jan Cooper, chief executive officer of the Livestock and Rural Transport Association of Western Australia (LRTAWA), further detailed how the lowering of safety compliance standards and undercutting of pay and conditions in the industry could frequently be attributable to industry entrants with poor regulatory knowledge and business skills. She argued that:

Buying a truck and getting an ABN doesn't necessarily make you a business owner, and I think there are operators in this category to which the contractual arrangements are more akin to an employer–employee arrangement.³⁴

3.39 Mrs Cooper concluded that such arrangements 'could quite properly be dealt with by the IR system' and should be scrutinised because 'a closer examination of those arrangements might uncover some of the causes of low rates in the industry'.³⁵

3.40 The LRTAWA submitted that a public assessment of independent contracting arrangements should be undertaken 'to analyse the prevalence of genuine contracts for service (contractor) as opposed to contracts of service (employee)'. LRTAWA noted that the results of this analysis 'could lead to further reform in dealing with independent contracts through corporate law and employees through industrial relations law'.³⁶

³² International Labour Organization, *Guidelines on the promotion of decent work and road safety in the transport sector*, 2020, pp. 27–28, available at: https://www.ilo.org/sector/activities/sectoral-meetings/WCMS_742633/lang--en/index.htm (accessed 30 July 2021).

³³ Fair Work Ombudsman and Registered Organisations Commission Entity, *Annual report 2019–20*, p. 20.

³⁴ Mrs Janet Cooper, Chief Executive Officer, Livestock and Rural Transport Association of Western Australia, *Committee Hansard*, 26 November 2020, p. 19.

³⁵ Mrs Janet Cooper, Chief Executive Officer, Livestock and Rural Transport Association of Western Australia, *Committee Hansard*, 26 November 2020, p. 19.

³⁶ Livestock and Rural Transport Association of Western Australia, *Submission 61*, p. 2.

3.41 The committee was told by Mr McMaster of ARTIO that in New South Wales, having an ABN was increasingly becoming a condition of work within the gig economy, with Mr McMaster providing the following example:

On the weekend in the paper, Hungry Panda were saying that their gig workers have to have an ABN if they want to continue to work for them and that their workers must work for other platform companies. That's because Hungry Panda don't want any grey area in terms of a court saying that someone's an employee or a principal contractor ... That says a company wants someone to be a contractor; they want them to be outside any legislation, therefore they will be working at minimum conditions and the race to the bottom will become more widespread.³⁷

3.42 This observation was reinforced by the lead official of the Transport Workers' Union of New South Wales, Mr Robert Rasmussen, who described developments where concreting companies, including some working on government projects, are engaging outside hirer vehicles known as 'white trucks' to allow for lower pay and conditions. The workers who drive these vehicles, some of which he alleges are on student visas, are engaged on ABNs and paid a weekly rate to 'ensure that the drivers have to take care of their own superannuation payments'. Mr Rasmussen added that even when the drivers are engaged as employees, conditions are poor:

... they get paid a flat hourly rate, so there are no shift loadings for early morning starts or late starts. If there are any damages or issues with concrete where loads get sent back, the loads get charged back to the drivers or the damages are paid for by the drivers out of their own pockets.³⁸

3.43 Furthermore, Mr Rasmussen reported that white truck operators are utilising phoenixing practices and 'engaging their drivers under a new entity every year' to absolve themselves of liability of the previous year.³⁹ Mr Rasmussen stated that these practices were widespread:

I wish I could mention that this is only in the concrete agitator industry; however, through the excavator materials industry, the tip-truck section of the Transport Workers Union, it's rife as well. At every job we go to we seem to uncover underpayments, late payments and severe issues of sub-

³⁷ Mr Hugh McMaster, Secretary/Treasurer, Australian Road Transport Industrial Organisation, New South Wales Branch, *Committee Hansard*, 8 February 2021, p. 5.

³⁸ Mr Robert Rasmussen, Lead Official, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, p. 24.

³⁹ Mr Robert Rasmussen, Lead Official, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, p. 24.

arrangements, where nobody within that supply chain is getting paid correctly. These are all on government projects.⁴⁰

- 3.44 Mr John Berger informed the committee that once the TWU in Victoria has been notified of a potential sham contracting arrangement, it had the option to carry out an internal investigation, report it to the Victorian Inspectorate or report it to the Fair Work Ombudsman.⁴¹
- 3.45 Representatives from the Fair Work Ombudsman told the committee that it had established a sham contracting unit and was targeting four sectors for proactive investigations, including road transport. Since 1 July 2019 the sham contracting unit had completed 548 disputes (of which about 18 per cent related to road transport) and recovered \$423 000 for workers in all industries. It also had an anonymous reporting tool for workers who were not willing to come forward.⁴²
- 3.46 Ms Michelle Allen, acting assistant commissioner with the Australian Taxation Office (ATO), reported that when the ATO identified 'businesses that are deliberately misclassifying their workers to get an unfair advantage', it could take actions including the 'imposition of tax and superannuation penalties'.⁴³
- 3.47 Ms Allen explained that there was no federal definition of 'employee'. In determining whether somebody was contracted, the ATO considered a range of factors including the person's ability to subcontract or delegate, whether they were contracted to provide a result (rather than paid by the hour), whether tools or equipment were provided for them, who bore the commercial or legal risk, who had control over how the work was carried out and whether the worker could operate their business independently, including accepting other work.⁴⁴
- 3.48 Ms Allen added that when a worker lodged an 'employee notification' to alert the ATO that they had been incorrectly classified as a contractor, or had not

⁴⁰ Mr Robert Rasmussen, Lead Official, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, pp. 24–25.

⁴¹ Mr John Berger, Branch Secretary, Transport Workers' Union of Australia Victoria/Tasmania Branch, *Committee Hansard*, 19 April 2021, pp. 19–20.

⁴² Mr Steven Ronson, Executive Director, Enforcement, Fair Work Ombudsman, *Committee Hansard*, 28 April 2021, p. 58; Mr Anthony Fogarty, Executive Director, Policy, Fair Work Ombudsman, *Committee Hansard*, 28 April 2021, p. 59.

⁴³ Ms Michelle Allen, Acting Assistant Commissioner, Risk and Strategy, Superannuation and Employer Obligations, Australian Taxation Office, *Committee Hansard*, 28 April 2021, p. 65.

⁴⁴ Ms Michelle Allen, Acting Assistant Commissioner, Risk and Strategy, Superannuation and Employer Obligations, Australian Taxation Office, *Committee Hansard*, 28 April 2021, pp. 66–67.

received the correct superannuation, the ATO investigated and responded to every case.⁴⁵

Gig economy workers

3.49 Gig economy workers provide services such as ride sharing, deliveries or personal services to customers for a fee via a digital platform. Like owner drivers, on-demand workers operate outside award pay and entitlements including paid sick leave and superannuation.⁴⁶

3.50 The committee was informed that Australian Taxation Office figures suggested that between August 2015 and June 2017, 100 000 individuals received a payment for a ride-sharing service.⁴⁷ A Victorian Government national survey found that '7.1 per cent of respondents currently work in the gig economy and that the main type of work is in transport and food delivery (18.6 per cent of platform workers)'.⁴⁸

3.51 The operation of the new platforms was explained by ARTIO in its submission:

In the road freight industry, platforms have emerged in relation to areas such as food deliveries performed by companies like Deliveroo and Foodora. They operate in a similar manner to loading agents in long distance road transport where a driver, usually an owner-driver, may rely on regular or irregular load/s for a return journey. These platforms are distinct from courier businesses which usually involve tied principal contractors/sub-contractor relationships, vehicles and bicycles painted in the principal contractor's colours and more structured and secure work.⁴⁹

3.52 A more recent development has been the entry of online platforms such as Uber Freight and Amazon Flex into the on-demand freight business. Mr Simon O'Hara, chief executive officer of Road Freight NSW, noted some implications of the transport industry needing to compete with certain digital platforms which run at a loss:

You might get cheaper deliveries, but there are a whole lot of problems that run off that. From our perspective, we want to make sure that Australian businesses continue to make money and that it's sustainable, notwithstanding that it's a two per cent to three per cent profit margin. We don't want to see that eroded. If you start cutting that out then you

⁴⁵ Ms Michelle Allen, Acting Assistant Commissioner, Risk and Strategy, Superannuation and Employer Obligations, Australian Taxation Office, *Committee Hansard*, 28 April 2021, p. 68.

⁴⁶ Dr Michael Rawling and Professor Joellen Riley Munton, *Proposal for legal protections of on-demand gig workers in the road transport industry*, Final report, January 2021, pp. 2, 3.

⁴⁷ Dr Michael Rawling, Senior Lecturer, Faculty of Law, University of Technology Sydney, *Submission 19*, p. 3.

⁴⁸ Victorian Government, *Submission 78*, p. 7.

⁴⁹ Australian Road Transport Industrial Organisation, *Submission 72*, p. 11.

will start seeing Australian businesses affected, and the only winners will be multinationals.⁵⁰

3.53 Mr Biagini of the Queensland TWU expressed the fear of many that 'what Uber has done to the taxi industry, Amazon is going to do to the transport industry'.⁵¹

3.54 A number of inquiry participants outlined shortcomings in the pay and conditions of gig economy workers. Dr Rawling reported on a major survey of 1100 rideshare drivers in 2018 which found that drivers were earning 'well below \$16 per hour before costs' and that many could not afford to save for superannuation or leave.⁵² The TWU warned that Australia's transport sector was:

...particularly vulnerable to such market entrants and the consequences for the transport industry will be tragic should these companies be left to further erode conditions.⁵³

3.55 Mr Malcolm Mackenzie, a rideshare driver, told the committee that Sydney had the highest rates, at around \$25 to \$35 per hour, but that from this wage drivers needed to cover 'vehicle operating costs, GST, petrol [and] maintenance'.⁵⁴

3.56 The TWU highlighted the need for better work conditions, reporting on 2018 survey results in its submission that found that 10 per cent of rideshare drivers had been physically assaulted and six per cent sexually assaulted. One in four food couriers had been in an accident.⁵⁵ National secretary Mr Michael Kaine referred to the deaths of five food delivery riders in 2020 and that work safety investigations found 'some of them weren't wearing approved safety helmets and weren't given proper training, and none had the right to workers compensation'.⁵⁶

⁵⁰ Mr Simon O'Hara, Chief Executive Officer, Road Freight NSW, *Committee Hansard*, 8 February 2021, p. 11.

⁵¹ Mr Peter Biagini, Branch Secretary, Transport Workers Union, Queensland Branch, *Committee Hansard*, 24 July 2020, p. 66.

⁵² Dr Michael Rawling, Senior Lecturer, Faculty of Law, University of Technology Sydney, *Submission 19*, pp. 7–8; Dr Michael Rawling and Professor Joellen Riley Munton, *Proposal for legal protections of on-demand gig workers in the road transport industry*, Final report, January 2021, p. 6.

⁵³ Transport Workers' Union of Australia, *Submission 126*, pp. 2, 11.

⁵⁴ Mr Malcolm Mackenzie, Rideshare Driver, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, p. 20.

⁵⁵ Transport Workers' Union of Australia, *Submission 126*, p. 9.

⁵⁶ Mr Michel Kaine, National Secretary, Transport Workers' Union of Australia, *Committee Hansard*, 28 April 2021, p. 11.

- 3.57 In its submission, ARTIO asked 'if the employees of traditional transport operators with OH&S systems and regimes in place are being replaced by "gig workers" receiving jobs from a particular platform, then the question of driving hours, fatigue management and related OH&S training becomes a bigger concern for society'.⁵⁷
- 3.58 In the view of the ARTIO, online platforms where work consists of 'a series of one-off transactions', bring about a 'fundamental reorganisation of work and relationships between those who provide that opportunity and those who undertake the work'.⁵⁸ In particular, 'the scope and extent of regulatory obligations imposed on platform owners, including those in workplace law, is substantially less than that of transport operators'.⁵⁹
- 3.59 According to the TWU, the 'poor remuneration and safety practices of this type of work is now well documented, prompting several jurisdictions around the world to regulate these emerging sectors'. Their submission cited Uber recently admitting to a NSW Parliamentary inquiry into the gig economy that it was 'not possible' for the company 'to ensure all of its workers were using safety approved equipment'.⁶⁰
- 3.60 Similarly, the submission referenced a series of 2020 audits of Amazon Flex's yards which reported that numerous drivers were:
- earning below \$10 to \$15 per hour on average after costs;
 - regularly overloading vehicles (commonly personal vehicles in use) and subsequently obstructing driver's vision;
 - delivering packages that require two or more people to carry and transport;
 - engaging in dangerous road practices driven by pressure to complete a unrealistic number of deliveries in short windows; and
 - insufficiently trained, with driver training and limited to a short 2-minute video (covering safety, manual handling and use of the company's app).⁶¹
- 3.61 A number of witnesses reported on efforts at state level to improve conditions for gig economy workers. For example, Mr Biagini reported that the Queensland Government had put in place a code of practice. He noted that it was 'voluntary at the moment, but at least it's a start'.⁶²

⁵⁷ Australian Road Transport Industrial Organisation, *Submission 72*, p. 13.

⁵⁸ Australian Road Transport Industrial Organisation, *Submission 72*, pp. 10, 11.

⁵⁹ Australian Road Transport Industrial Organisation, *Submission 72*, p. 11.

⁶⁰ Transport Workers' Union of Australia, *Submission 126*, p. 9.

⁶¹ Transport Workers' Union of Australia, *Submission 126*, p. 11.

⁶² Mr Peter Biagini, Branch Secretary, Transport Workers Union, Queensland Branch, *Committee Hansard*, 24 July 2020, p. 66.

3.62 In Victoria, changes to the definition of a 'freight broker' in the *Owner Drivers and Forestry Contractors Act 2005* gave gig economy workers access to dispute resolution and payments within 30 days. Mr Peter Anderson remarked that the amendments were 'not going to really hold up as we go forward, but it's the first step'.⁶³ An inquiry into the on-demand workforce commissioned by the Victorian Government and conducted by former Fair Work Ombudsman Natalie James recommended changes to Commonwealth and Victorian legislation to ensure protections and consistency in the employment status of the gig economy workforce.⁶⁴

3.63 Mr Gavin Webb, chief legal officer of the Transport Workers' Union of New South Wales contended that in New South Wales:

Currently there's no regulation at all of those rideshare drivers or those food delivery drivers. It's just a free market basically and they charge them whatever they want, pay them whatever they want.⁶⁵

3.64 Mr McMaster argued that 'gig workers should get reasonable reward for their labour, equivalent to if they were employed under an award' and access to 'a universal workers compensation scheme'.⁶⁶

3.65 Dr Rawling maintained that these workers should not be viewed or regulated as a separate part of the economy:

...the service being delivered by these gig workers and the labour performed by them is almost identical to the parallel more traditional work arrangements in the road transport industry. What I'm really saying here is that Uber drivers deliver the same service as a conventional cab driver et cetera, and freight drivers deliver the same service as those engaged by more traditional arrangements for delivering freight. So really it's false to look at this work as being in a separate gig economy.⁶⁷

Road Safety Remuneration Tribunal

3.66 The RSRT was a national workplace relations tribunal that set pay and conditions for road transport drivers between 2012 and 2016. The tribunal was

⁶³ 'Dispute resolution now available for gig economy couriers', *Inside Small Business*, 8 May 2020; Mr Peter Anderson, Chief Executive Officer, Victorian Transport Association, *Committee Hansard*, 19 April 2021, p. 7.

⁶⁴ Industrial Relations Victoria, *Report of the inquiry into the Victorian on-demand workforce*, June 2020; Victorian Government, *Submission 78*, pp. 6–7.

⁶⁵ Mr Gavin Webb, Chief Legal Officer, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, p. 21.

⁶⁶ Mr Hugh McMaster, Secretary/Treasurer, Australian Road Transport Industrial Organisation New South Wales Branch, *Committee Hansard*, 8 February 2021, pp. 3–4.

⁶⁷ Dr Michael Rawling, Senior Lecturer, Faculty of Law, University of Technology Sydney, *Committee Hansard*, 8 February 2021, p. 46.

created after a 2008 National Transport Commission report linked driver safety with driver payment levels and recommended a national scheme to set minimum safe rates for employee and owner drivers.⁶⁸

- 3.67 The RSRT made two orders during its operation.⁶⁹ A 2014 road transport order for distribution and long distance operations set out requirements on employers, hirers and other participants in the supply chain including contract obligations, safe driving plans, training and dispute resolution. It also required that invoices be paid within 30 days.
- 3.68 A 2016 payments order established a national minimum pay rate and unpaid leave for contractor drivers. This order proved controversial when owner drivers argued that the payments order 'threatened the livelihood of small operators by pricing them out of the market and enforcing much higher rates of pay'.⁷⁰
- 3.69 In April 2016 the RSRT was abolished and its powers transferred to the National Heavy Vehicle Regulator.⁷¹
- 3.70 The committee sought clarification from the Australian Trucking Association (ATA) about its involvement in industrial relations matters and its position on the abolishment of the RSRT. Its CEO, Mr Andrew McKellar defended the ATA and highlighted that its members did not see the benefit in returning to the RSRT framework. Mr McKellar noted that ATA members:

... believe that issue was dealt with by the parliament, that the system that was put in place was not working effectively and did not work according to its objectives. The parliament took a decision and abolished the RSRT. I think that's not something that should be relitigated. We think that debate is done. When it comes to safety, one of the things we would say is that we should look at: Where is the greatest return? Where is it that we will get the maximum benefit? Where should we put our focus in terms of policy outcomes, legislative, regulatory outcomes, that will deliver the greatest dividend in terms of lives saved and injuries prevented? We would say that re-prosecuting that argument is not where that's going to go. There are many much higher priorities in terms of safety where we will get a much greater dividend. So my expectation is that, if we were to go back and ask our members on that, and we certainly will, in the context of the

⁶⁸ Michael Quinlan and Lance Wright, *Remuneration and Safety in the Australian Heavy Vehicle Industry: a review undertaken for the National Transport Commission*, 2008, p. 49; National Transport Commission, *Submission 75*, pp. 4–5.; Queensland Department of Transport and Main Roads, *Submission 25*, p. 3.

⁶⁹ Fair Work Ombudsman, *Road Safety Remuneration System*, <https://www.fairwork.gov.au/about-us/legislation/road-safety-remuneration-system> (accessed 16 April 2021).

⁷⁰ Queensland Department of Transport and Main Roads, *Submission 25*, p. 3.

⁷¹ 'Controversial history of Road Safety Tribunal shows minimum pay was doomed from the start', *The Conversation*, 15 April, 2016, <https://theconversation.com/controversial-history-of-road-safety-tribunal-shows-minimum-pay-was-doomed-from-the-start-57815> (accessed 2 February 2021).

forthcoming federal election, I'm not aware that any of the major parties are advocating that we put the truck into reverse on that issue.⁷²

- 3.71 The committee pointed out that current and former ATA members had communicated a different view, and did not share ATA's position on this matter as demonstrated by the below exchange:⁷³

CHAIR: Then may I ask you this question. Most of your membership has presented in front of this committee so far, and we understand that TWU are no longer part of the membership. I know that. When I heard from the Queensland Trucking Association in Queensland, I found that that's not their view. Mr McKinley, have you read the transcripts of the inquiry so far?

Mr McKinley: I'm familiar with the evidence that's been presented, yes.

CHAIR: Well, pull me up if I get something wrong and I will correct the record. So QTA aren't saying that. QTA are saying that something has to be done because of the squeeze at the top of the supply chain. Don't quote me word for word, because there have been that many times about this in the inquiry.

Mr McKinley: Of course.

CHAIR: [Road Freight] New South Wales, absolutely, have the same position. They don't share your position. Pull me up if I'm wrong. Western Roads Federation—what a presentation that was from Cam Dumesny! He doesn't support your position. Am I correct still, there, Mr McKinley?

Mr McKinley: That's what the evidence—

CHAIR: When I spoke with Mr Shearer and Ms Middleton of [South Australian Road Transport Association]—and please help me out, because my memory is a bit shady—they weren't opposed to something being done correctly, something done properly with consultation. Did I get that bit right?

Mr McKinley: That sounds right.

CHAIR: On Friday I will be talking to the [Tasmanian Transport Association], so I can't speak for Michelle and her team down there. Last week in Victoria with the [Victorian Transport Association] and Mr Anderson, it was one of the most powerful presentations, again, calling out that something needs to be done. I haven't got that one wrong either, have I?

Mr McKinley: No, and there were many aspects of Mr Anderson's presentation that we would completely agree with.

CHAIR: Sure. I know that your membership is vast and varied, and I get all that, and I'll have a chance to talk to the livestockies. I was speaking to

⁷² Mr Andrew McKellar, Chief Executive Officer, Australian Trucking Association, *Committee Hansard*, 28 April 2021, p. 23.

⁷³ The committee referenced the Transport Workers' Union, the Queensland Trucking Association, Roadtrack NSW, Western Roads Federation, the Victorian Transport Association and the South Australian Road Transport Authority.

all the livestockies in their states. The livestockies have clearly said that they don't want anything. They're on the same team, the same argument, as you, although they do realise there are some challenges. I think the Western Australians were saying it would be nice to be able to get our rates. They'll speak for themselves later today. NatRoad will be appearing today, and I'll ask the same question of them. When you say your membership is not supportive of going down that path, who are you talking about?⁷⁴

3.72 In response, the ATA clarified that it was putting forward the position of its general council and that:

... all of those members [referenced] have a voting seat in the general council. We know what happened with the legislation previously, and that's where the membership was. At no point in my short tenure has anyone come to me and said, 'We need to change this; we need to go back.'⁷⁵

3.73 The ATA concluded its remarks by stating that its position and the views of its members on policy matters are developed in consultation prior to a federal election.⁷⁶

Road transport industry awards

3.74 Minimum pay and conditions for the road transport industry are determined under the Road Transport and Distribution Award 2020 (the Distribution Award) and the Road Transport (Long Distance Operations) Award 2020 (the Long Distance Award). Both of these awards are governed by the Fair Work Commission.

3.75 The Long Distance Award covers interstate freight operations where the distance travelled exceeds 200 kilometres and all journeys over 500 kilometres.⁷⁷ Road transport and distribution industry employers and employees not engaged in long distance or interstate operations are covered by the Distribution Award. The Distribution Award also excludes employers and employees covered by the Mining Industry Award 2020, Transport (Cash in Transit) Award 2020 and the Waste Management Award 2020.

3.76 Both the Distribution Award and Long Distance Award contain clauses on minimum rates of pay and minimum work conditions including hours of work, breaks, overtime, leave provisions, termination of employment and

⁷⁴ Exchange between Senator Sterle and Mr Andrew McKellar, Chief Executive Officer, Australian Trucking Association, *Committee Hansard*, 28 April 2021, p. 24.

⁷⁵ Mr Andrew McKellar, Chief Executive Officer, Australian Trucking Association, *Committee Hansard*, 28 April 2021, p. 24.

⁷⁶ Mr Andrew McKellar, Chief Executive Officer, Australian Trucking Association, *Committee Hansard*, 28 April 2021, p. 24.

⁷⁷ Road Transport (Long Distance Operations) Award 2020, clause 4.2.

dispute resolution. A new pay rate schedule came into effect on 1 November 2020.

- 3.77 Under the Distribution Award, hourly pay rates range from \$21.01 for a grade 1 transport worker to \$24.74 for a grade 10.⁷⁸ The grades used in the transport awards are largely based on the vehicle the driver is operating. The minimum rate for a semitrailer driver is \$22.74 per hour.⁷⁹
- 3.78 Under the Long Distance Award, an employer of an employee engaged in a long distance operation must nominate whether the employee is to be paid by cents per kilometre or an hourly rate, with cents per kilometre the default rate.
- 3.79 Minimum rates of pay for full-time workers and the hourly driving rate under the Long Distance Award are listed in table 3.1. Casual employees must be paid an additional 15 per cent of the minimum hourly driving rate.
- 3.80 An employee engaged on a long distance operation using the kilometre driving method is paid for the driving component of a particular journey by multiplying the minimum cents per kilometre for the relevant grade of vehicle (see table 3.2), by the number of kilometres travelled. Casual employees must be paid an additional 15 per cent on the cents per kilometre rates.
- 3.81 Clause 16.4(b) of the Long Distance Award contains a schedule of agreed distances for a number of major capital city routes.
- 3.82 Where the employer has an accredited fatigue management plan in place, the hourly rate may be used to calculate a trip rate for any journey by multiplying the hourly rate by the number of driving hours specified in the fatigue management plan for that journey. Where an employee is engaged on loading or unloading duties, that employee must be paid for such duties at an hourly rate.

Table 3.1 Long Distance Award-minimum weekly and hourly rates of pay

Grade	Minimum weekly rate (full time employee)	Minimum hourly driving rate
3	\$828.40	\$32.31
4	\$843.70	\$32.90
5	\$854.30	\$33.32
6	\$864.10	\$33.70
7	\$876.70	\$34.19

⁷⁸ Fair Work Ombudsman, *Pay guide: Road Transport and Distribution Award*, 1 November 2020, p. 2.

⁷⁹ Mr Peter Anderson, Chief Executive Officer, Victorian Transport Association, *Committee Hansard*, 19 April 2021, p. 4.

8*	\$902.10	\$35.18
9**	\$917.30	\$35.77
10+	\$940.00	\$36.66

Source: Compiled from Road Transport (Long Distance Operations) Award 2020, clauses 16.1(a) and 16.5(b).

*includes B-doubles with GCM 53.4 tonnes or less

** includes B-doubles with GCM over 53.4 tonnes

+ Driver of road train or triple articulated vehicle exceeding 94 tonnes GCM

Table 3.2 Long Distance Award - rates of pay - kilometre driving method

Grade	Minimum cents per kilometre
3	43.08
4	43.87
5	44.42
6	44.93
7*	45.59
8**	46.91
9+	47.70
10	48.88

Source: Road Transport (Long Distance Operations) Award 2020, clause 16.4(a).

* includes B-doubles with GCM 53.4 tonnes or less

** includes B-doubles with GCM over 53.4 tonnes

+ Driver of road train or triple articulated vehicle exceeding 94 tonnes GCM

Adequacy of award rates of pay

3.83 The committee heard that there was a wide disparity in rates offered to drivers within the industry.

3.84 A number of companies maintained that they offered above award rates in enterprise agreements.⁸⁰ Mr Rodney McIntosh, human resources and compliance manager of O'Brien Transport Services, stated that the company had to offer above award rates to hold onto drivers. It offered an enterprise agreement for line haul drivers and an hourly rate for local drivers.⁸¹

⁸⁰ See, for example, Mr Mark Mazurek, Chief Executive Officer, Linfox, *Committee Hansard*, 19 April 2021, p. 54.

⁸¹ Mr Rodney McIntosh, Human Resources and Compliance Manager, O'Brien Transport Services, *Committee Hansard*, 22 November 2019, p. 36.

3.85 In the estimation of Mr John Berger, secretary of the Victoria/Tasmania Branch of the TWU, there were 'hundreds' of enterprise bargaining agreements operating in Victoria alone.⁸²

3.86 Mr Peter Biagini, branch secretary of the Queensland Transport Workers' Union, maintained that the award is not a living wage:

Lots of our major transport companies over many years have been doing enterprise agreements, and they pay a living wage now. A living wage, compared to the award, is approximately 30 per cent, so the difference is a semitrailer driver getting \$28 an hour compared to the award's \$21. That's quite a difference, so companies that pay the award have got a real advantage.⁸³

3.87 According to Mr Biagini, many of the companies that pay the award rates offer their drivers long hours of up to 60 or 70 hours a week, which the drivers need to pay their bills. This has an impact on their mental health and work safety.⁸⁴

3.88 Dr Michael Rawling from the Faculty of Law at the University of Technology Sydney asserted that in the last 30 years 'there's been a steady decline in pay rates in real terms' for contract drivers and that these low rates 'place downward pressure on the pay of the employee-drivers as well'.⁸⁵

3.89 Long-distance truck driver Mr Kelvin Cootes maintained that rates are not keeping up with changes in the vehicle fleet and the increased responsibility on drivers, and provided the following example:

I have been currently driving from Perth to Melbourne with 36 metres of truck, which is two trailers at 78 tonnes. We have just gone to these new what they call the BAB trains, which are 42½ metres and we have 99.5 tonne in weight, which we take into Adelaide, and shortly, they tell me, we'll be going into Melbourne with these long units ... and we are going to be paid no extra—absolutely nothing to have these huge rigs on the road that we're responsible for. I find it quite disappointing. Wages, from a van driver to a truck driver to a road train driver, are minimal ... They're probably only looking at 20 or 30 cents an hour extra for driving these big rigs.⁸⁶

⁸² Mr John Berger, Branch Secretary, Transport Workers' Union of Australia Victoria/Tasmania Branch, *Committee Hansard*, 19 April 2021, p. 20.

⁸³ Mr Peter Biagini, Branch Secretary, Transport Workers Union Queensland Branch, *Committee Hansard*, 24 July 2020, p. 64.

⁸⁴ Mr Peter Biagini, Branch Secretary, Transport Workers Union Queensland Branch, *Committee Hansard*, 24 July 2020, p. 64.

⁸⁵ Dr Michael Rawling, Senior Lecturer, Faculty of Law, University of Technology Sydney, *Committee Hansard*, 8 February 2021, p. 46.

⁸⁶ Mr Kelvin Cootes, *Committee Hansard*, 26 November 2020, p. 4. A similar point was made by Mr Jerry Brown-Sarre, *Committee Hansard*, 22 November 2019, pp. 55–56.

Unpaid wages

3.90 The committee heard that workers being paid under-award rates and not receiving entitlements was 'rampant' in the industry.⁸⁷

3.91 Truck driver Mr Graeme Walker tabled payslips of a company that did not pay casual workers the percentage loading specified in the Long Distance Award or provide permanent drivers with rostered days off. He also reported changes to workplace agreements on the run, where employees were penalised if they did not load vehicles to the maximum weight.⁸⁸

3.92 Drivers' advocate Mr Trevor Warner reported that some employers rolled entitlements into the cents per kilometre rate instead of making them additional to pay rates, as stated by the award. In one instance that he referred to the Fair Work Ombudsman, the pay rate through an enterprise bargaining agreement was one cent per kilometre above the award but included 'all load/unloading, travel allowance, [rostered days off] and Public Holidays'.⁸⁹ Mr Warner added:

To add insult to injury, the employer claimed [it] also paid \$90 per night for travel allowance. This allowance was then deducted from the Gross Weekly Wage to reduce the withholding tax and then added back on after the tax was calculated. We estimated with each long distance truck driver, the Employer was saving some \$16,000 per year in wages, PAYG and other obligations. The FWO reported back that "whilst the EBA was morally bankrupt, it was totally legal until an employee terminated it"⁹⁰

3.93 Mr Warner outlined the broader economic effects of unpaid wages:

These unpaid wages impact taxation, payroll taxes, workers compensation programs and the less money into the broader economy in general. Plus it applies operating pressures to companies wanting to compete fairly in the marketplace. Undercutting of freight rates can be directly linked to wage theft.⁹¹

3.94 Other submitters pointed to unpaid work that is not covered by the awards including washing trucks, refuelling and conducting maintenance checks and repairs.⁹²

3.95 The loss of income experienced by drivers brought about by the poor maintenance of their employers' vehicles was also raised. Mr Andrew Bishop

⁸⁷ Mr Richard Olsen, Branch Secretary, Transport Workers Union of NSW, *Committee Hansard*, 8 February 2021, p. 21.

⁸⁸ Mr Graeme Walker, *Committee Hansard*, 9 February 2021, pp. 40–41.

⁸⁹ Mr Trevor Warner, *Submission 30*, p. 2.

⁹⁰ Mr Trevor Warner, *Submission 30*, p. 2.

⁹¹ Mr Trevor Warner, *Submission 30*, p. 1.

⁹² Victorian Government, *Submission 78*, p. 4.

explained that with truck companies operating on tight margins, maintenance was allowed to slip. Yet when the truck finally went off the road with a major problem, drivers were not earning an income while they waited for it to be fixed.⁹³

- 3.96 Unpaid wages stemming from the loading and unloading of trucks and the cents per kilometre rate in the Long Distance Award are considered in more detail in the sections below.

Loading and unloading

- 3.97 The area where the most concerns were expressed over unpaid wages was the time spent queuing for loads and loading and unloading vehicles.
- 3.98 Loading and unloading rates are covered in clause 16.6 of the Long Distance Award which states that where 'an employee is engaged on loading or unloading duties, that employee must be paid for such duties at an hourly rate'. The hourly rate can be calculated according to a formula (dividing the weekly award rate by 40 and multiplying by 1.3) or a fixed allowance covered in a written agreement between the employer and employee. There is a minimum of one hour loading and one hour unloading per trip and casual employees must receive an additional 25 per cent. No specific provisions for loading or unloading appear in the Distribution Award.
- 3.99 Road freight drivers consistently reported to the committee that companies generally don't pay, or don't pay adequately, for the time waiting on docks, at distribution centres or freight despatch points. In some cases the time expended can be considerable. Mr Kelvin Cootes told the committee that he worked 82 hours a week driving between the eastern states and Perth and '30 hours of that at least would be downtime, waiting for the loads, that I don't get paid for'.⁹⁴
- 3.100 A consequence of unpaid wages, according to Dr Rawling, is that 'drivers are using rest breaks to load and unload, causing drivers to become fatigued and possibly engage in hazardous practices on the road'.⁹⁵ One driver who did receive an hour's pay to load, remarked that if it took four hours to be loaded:

We've made our \$36 to load ...; we're now on nine bucks an hour for that period. So to make a dollar you've got to drive the maximum number of hours for the maximum number of kilometres in the shortest possible time to get to the other end.⁹⁶

⁹³ Mr Andrew Bishop, *Committee Hansard*, 22 November 2019, p. 28.

⁹⁴ Mr Kelvin Cootes, *Committee Hansard*, 26 November 2020, p. 4.

⁹⁵ Dr Michael Rawling, Senior Lecturer, Faculty of Law, University of Technology Sydney, *Committee Hansard*, 8 February 2021, p. 46.

⁹⁶ Mr Graeme Walker, *Committee Hansard*, 9 February 2021, p. 44.

3.101 Mr Ian Wild, president of the Livestock and Rural Transporters' Association of Queensland, also questioned the animal welfare implications of long delays at sale yards.⁹⁷

3.102 Inquiry participants explained to the committee that a reason for companies not recompensing drivers for the loading and unloading delays was the difficulty in charging clients.⁹⁸ However, they also made the point that the tolerance for unpaid waiting and loading time exacerbated inefficiencies in the system.⁹⁹ Owner-operator Mr Chris Roe remarking during hearings, if 'there was a charge initiated and enforced on that time, I guarantee you that the bottlenecks that occur would stop within a week'.¹⁰⁰ Mr Walker observed that inefficiencies were increased by the loading facilities themselves, which have not kept pace with truck technology:

They were built when they were bringing them in J Series Bedfords, little tiny eight-tonne trucks. We're rolling in the gate with a 40-tonne truck, and it's taking two hours to get it off because their equipment is so out of date, but they don't pay demurrage for it.¹⁰¹

3.103 Some witnesses pointed out that unforeseen delays on the road could result in drivers being 'punished' for missing a distribution centre time slot or driving unsafely to get there on time. Driver Mr Kean Austin argued for greater leniency in the timeslots while the Trucking Support Agency of Australia advocated for a 'demurrage rate for unnecessary loading and unloading times' so that contractors 'value' the time of a driver or transport company.¹⁰²

Calculation of rates of pay

3.104 The cents per kilometre rate in the Long Distance Award was seen as problematic by a number of witnesses, primarily because drivers were not being paid for the full distances travelled. While clause 16.4(b) of the award contains a schedule of major capital city distances, drivers can be asked to do pickups and deliveries at either end but only be paid for the distances specified in the schedule.¹⁰³

⁹⁷ Mr Ian Wild, President, Livestock and Rural Transporters Association of Queensland, *Committee Hansard*, 24 July 2020, p. 52.

⁹⁸ Mr Chris Roe, Owner-operator, Roe's Holdings, *Committee Hansard*, 22 November 2019, p. 47.

⁹⁹ Mr Andrew Bishop, *Committee Hansard*, 22 November 2019, p. 31.

¹⁰⁰ Mr Chris Roe, Owner-operator, Roe's Holdings, *Committee Hansard*, 22 November 2019, p. 46.

¹⁰¹ Mr Graeme Walker, *Committee Hansard*, 9 February 2021, p. 45.

¹⁰² Trucking Support Agency of Australia, *Submission 114*, p. 1; Mr Kean Austin, *Committee Hansard*, 29 April 2021, pp. 21–22.

¹⁰³ See, for example, Mr Richard Olsen, Branch Secretary, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, p. 21; Mr Graeme Walker, *Submission 43*, p. 1.

3.105 Drivers of non-capital city routes expressed similar concerns that the calculation of distances was from GPO to GPO. Mr Walker provided an example to the committee, saying that:

... in the line of business that I'm working in, which is bulk commodities, we're loading and unloading on farm, we're delivering to port, and we're delivering to capital cities. What they've done is move that capital-city-to-capital-city theory to Newcastle to Dubbo or Newcastle to Narromine. They're working on the post office theory. I've yet to tip anything at a post office or load anything at a post office.¹⁰⁴

3.106 Drivers of B-doubles and road trains also pointed out that the calculation of kilometres often did not take into account the restrictions on routes imposed on vehicles with higher mass limits.

3.107 Mr Walker provided the committee with a spreadsheet of his wages in 2016–17 with the difference between the kilometres travelled on the speedometer and the distances for which he was paid, resulting in an average fortnightly variation of 429 kilometres. Mr Walker calculated that:

... based on the current B-double rate, which is roughly 47c a kilometre, that's \$201 a fortnight that I'm not getting paid. If you want to extrapolate that out even further, if you had a company and you owned 30 trucks and the average across the fleet is 400 kilometres a fortnight, based on my figures the wages saving per fortnight for 30 trucks would be six grand; annually that's \$156,000 ... On top of that you've got savings in payroll tax, PAYG tax, workers compensation, annual leave — all the add-ons.¹⁰⁵

3.108 The formula for superannuation for workers on a cents per kilometre rate was also queried by Mr Walker. Mr Walker asserted that superannuation is calculated on a base rate of 38 hours per week when someone on a cents per kilometre rate may be working hours far more than the base rate but the super paid 'is on about 50 per cent of that'.¹⁰⁶

3.109 Mr Warner pointed out that the hourly rate as specified in the award is also compromised by the schedule in clause 16.5(c) for capital city times. So in the case of a driver undertaking a 10 hour trip from Sydney to Melbourne, Mr Warner argued that:

... the way the award stands now with the definition of loading and unloading and the long-distance operation means that the driver can spend six hours in Sydney loading, do his 10 hours, have a sleep when he gets to the other end and then go and do that delivery ... to do my job legally it is a 26-hour shift, but I only get paid for the 10 hours ...¹⁰⁷

¹⁰⁴ Mr Graeme Walker, *Committee Hansard*, 9 February 2021, p. 42.

¹⁰⁵ Mr Graeme Walker, *Committee Hansard*, 9 February 2021, pp. 41–42.

¹⁰⁶ Mr Graeme Walker, *Committee Hansard*, 9 February 2021, p. 47.

¹⁰⁷ Mr Trevor Warner, *Committee Hansard*, 24 July 2020, p. 11.

3.110 In its submission, the Victorian Government pointed to inherent dangers in the cents per kilometre rate because of the need for drivers to make up time:

Previous literature has found that kilometre rates and low rates of remuneration provide an incentive to drivers to maximise hours driven and to speed ... This induces fatigue, promotes the use of stimulants to overcome fatigue and increases the chance of accidents.¹⁰⁸

3.111 Many inquiry participants advocated for the removal of the cents per kilometre rate.¹⁰⁹ Some argued that as fatigue is managed by the hour, payments should match logbooks and also be calculated on hours worked.¹¹⁰ One driver concluded:

I think the kilometre rate for a driver has had its day. I think we should be looking at hourly rates for drivers. It impacts on road safety because every driver is rushing to get the kilometres under their belt. They will push and will sometimes use the work diary as a book of lies if it means getting there more quickly and getting home. It's actually the way they are paid, so, if they break down or they're loading and unloading, sometimes they get paid for it and sometimes they don't. But I'm a firm believer that a kilometre payment to an employee should probably be looked at being put out the door now. Safety is the priority.¹¹¹

Enforcement of awards

3.112 The Fair Work Commission is a national workplace relations tribunal established under the *Fair Work Act 2009*. Its functions include setting minimum wages and conditions in awards and hearing collective and individual workplace disputes. Clauses in the Long Distance Award and Distribution Award outline the process for resolving a dispute. An employee must first attempt to resolve the dispute with their supervisor and senior management before referring the matter to the Fair Work Commission for mediation, conciliation or consent arbitration.

3.113 The Fair Work Ombudsman (FWO) is an independent statutory agency that regulates Australian workplace laws and deals with disputes in the workplace including for underpayment, non-payment and breaches of conditions. The Fair Work Ombudsman can undertake a range of actions including assisting in workplace conversations, commencing mediation, referral to an inspector for

¹⁰⁸ Victorian Government, *Submission 78*, pp. 7–8.

¹⁰⁹ See, for example, Mr Andrew Bishop, *Committee Hansard*, 22 November 2019, p. 26; Mr Frank Arcidiaco, *Committee Hansard*, 25 November 2020, p. 25; Mr Mike Williams, *Submission 104*, p. 14; Mr Rod Hannifey, *Submission 45*, p. 2; Mr John Berger, Branch Secretary, Transport Workers' Union of Australia Victoria/Tasmania Branch, *Committee Hansard*, 19 April 2021, p. 24.

¹¹⁰ Mr Dean O'Brien, *Committee Hansard*, 22 November 2019, p. 37.

¹¹¹ Ms Roxanne Mysko, Chief Executive Officer, United Transport Group, *Committee Hansard*, 25 November 2020, p. 13.

issuing a compliance notice or broader investigation, lodging matters for claims of under \$20 000 in the small claims court and using statutory enforcement tools such as litigation for matters involving serious or widespread non-compliance.¹¹²

3.114 Mr Steven Ronson, executive director of enforcement at the Fair Work Ombudsman, explained the process for issuing a compliance notice:

The way they work is, if the inspector begins the investigation and can form a reasonable belief—it's a fairly moderate threshold—that there have been contraventions of the award or the act, we can issue a compliance notice on the employer ... and require that they rectify the worker or his or her entitlements and provide us evidence of rectification. Failure to comply with that compliance notice is called a civil remedy provision. We will take that employer to court for failure to comply with a compliance notice.¹¹³

3.115 His colleague, Mr Anthony Fogarty, executive director of policy, added that the success rate of compliance notices was 96 per cent. He further reported that while an employer might be given three or four weeks to comply with a compliance notice, breaches that required court action could be a lengthy process involving the 'gathering of evidence, witness statements and a record of interviews'. In total, the Fair Work Ombudsman had received 25 000 requests for assistance in the 2019–20 financial year and recovered \$123 million in underpaid wages.¹¹⁴

3.116 There was agreement among inquiry participants that the industry needed enforcement of awards and enterprise agreements, to place businesses on a level footing, with Mr Biagini stating:

Many companies have now grown really big because they don't do enterprise agreements or, if they do an enterprise agreement, it gets knocked back by fair work, because it doesn't pass the better off overall test, the BOOT. In other words, all they want to do is pay the award. The company that believes they should be paying workers a fair wage instead of a safety net are not able to compete anymore.¹¹⁵

¹¹² Fair Work Ombudsman and Registered Organisations Commission Entity, *Annual report 2019–20*, p. 17.

¹¹³ Mr Steven Ronson, Executive Director, Enforcement, Fair Work Ombudsman, *Committee Hansard*, 28 April 2021, p. 56.

¹¹⁴ Mr Anthony Fogarty, Executive Director, Policy, Fair Work Ombudsman, *Committee Hansard*, 28 April 2021, p. 57.

¹¹⁵ Mr Peter Biagini, Branch Secretary, Transport Workers Union Queensland Branch, *Committee Hansard*, 24 July 2020, p. 63.

3.117 A number of inquiry participants raised concerns about the perceived lack of enforcement of award provisions and the barriers to road transport workers reporting underpaid wages and entitlements.

3.118 Witnesses reported instances where employees were reluctant to come forward with complaints out of fear of reprisals and the lack of cooperation from employers in engaging with aggrieved employees.¹¹⁶ For Mr Biagini, lack of anonymity was a major disincentive to exposing egregious behaviour. He explained that for the union to go in and investigate:

... we need a written authorisation from that member to go and do a wages inspection. What do you think happens once we show the employer that Joe Blow has given us the authorisation to look at his times and wages because he thinks he's not being paid properly? He gets weeded out.¹¹⁷

3.119 One witness suggested that some of the under reporting of breaches was due to a lack of awareness of the avenues available, with one driver remarking that most drivers 'wouldn't even know how to access the Fair Work Commission website, let alone understand the legislation behind it'.¹¹⁸ Other drivers were deterred by an assumption that they would need to take any complaints to court, an outcome that would be financially beyond the reach of many transport industry workers.¹¹⁹

3.120 There was also support for enforcement to be widespread and proactive, so that an issue isn't only fixed for the person who makes the complaint, but also for 'the other 20, 30 or 50 people who have been cheated as well'.¹²⁰

3.121 Mr Warner reported that in his experience in contacting the Fair Work Ombudsman, if there is an issue which affects the entire payroll, the FWO requires employees to make individual requests, which means multiple investigations with the same employer and wasting resources:

They claim to be an 'impartial mediator' and cannot act for anyone else, except the Individual requesting assistance. They refused to acknowledge their 'campaigns department' does indeed have the power to investigate an Employer without a formal complaint being made.¹²¹

¹¹⁶ Mr Trevor Warner, *Committee Hansard*, 24 July 2020, p. 9; Mr Trevor Warner, *Submission 30*, p. 2.

¹¹⁷ Mr Peter Biagini, Branch Secretary, Transport Workers Union Queensland Branch, *Committee Hansard*, 24 July 2020, p. 63.

¹¹⁸ Mr Robert Bell, *Committee Hansard*, 24 July 2020, p. 3.

¹¹⁹ Mr David Cullen, Delegate, Transport Workers Union Queensland Branch, *Committee Hansard*, 24 July 2020, p. 73.

¹²⁰ Mr Peter Biagini, Branch Secretary, Transport Workers Union Queensland Branch, *Committee Hansard*, 24 July 2020, p. 63.

¹²¹ Mr Trevor Warner, *Submission 30*, p. 1.

3.122 Mr Ronson confirmed that the FWO did not usually conduct company-wide audits 'unless there is something suspicious or there is evidence indicating that the issues would be broader'. Mr Fogarty added that if the FWO was approached by a group, it would look more broadly, but 'it's about the access to the evidence and the efficiency of that'.¹²²

3.123 Other drivers expressed frustration at being unable to pursue pay disputes if they are considered contractors:

Fair Work has chosen not to support me in my case ... I've just been told: 'You've got to prove you're not a contractor. It's up to you to do that, not us.' They [the employers] owe me about \$40,000, so this is not a minor issue.¹²³

3.124 Transport industry consultant Mr Mark Williams took the view that minimum award rates were not enforceable 'unless you're operating in a closed loop or in a metropolitan wharf cartage type of area'. He argued that in line haul operations where '70 per cent of the rate will be going northbound and 30 per cent will be coming southbound', supply and demand factors would push rates down.¹²⁴

3.125 Dr Rawling advocated for the role of a 'tribunal form of regulation that can make orders for both employees and independent contractors', arguing regulation should not focus on an individual work contract where 'the burden then falls on the individual driver to litigate or enforce that right'. Instead enforcement of awards should bring about a 'programmatically response', where a tribunal can 'rollout standards for classes of workers in the road transport industry'.¹²⁵

3.126 The need for a sector-wide investigation of compliance by employers with minimum award rates, allowances, conditions and superannuation was mooted by the Australian Livestock and Rural Transporters Association (ALRTA). The ALRTA emphasised the value of education for inadvertent breaches and the ability for employers to seek advice without 'disproportionate recrimination'. However, ALRTA was also supportive of 'surveillance and investigative powers, prosecution and a penalty regime sufficient to deter non-compliance' for deliberate breaches.¹²⁶

¹²² Mr Steven Ronson, Executive Director, Enforcement, Fair Work Ombudsman, *Committee Hansard*, 28 April 2021, p. 58; Mr Anthony Fogarty, Executive Director, Policy, Fair Work Ombudsman, *Committee Hansard*, 28 April 2021, p. 58.

¹²³ Mr Craig Minns, Delegate, Transport Workers Union Queensland Branch, *Committee Hansard*, 24 July 2020, p. 68.

¹²⁴ Mr Mark Williams, *Committee Hansard*, 20 April 2021, p. 21.

¹²⁵ Dr Michael Rawling, Senior Lecturer, Faculty of Law, University of Technology Sydney, *Committee Hansard*, 8 February 2021, p. 47.

¹²⁶ Australian Livestock and Rural Transporters Association, *Submission 12*, p. 7.

- 3.127 The National Road Transport Association (NatRoad) submitted that where wages and conditions were being undercut, such as due to competition from independent contractors, greater enforcement of the current law was required rather than new laws.¹²⁷
- 3.128 Mr Ronson also took the view that compliance did not require a 'legislative fix', stating that it 'just boils down to the fact that there are 13 million workers, two million businesses and only so many hours in the day'.¹²⁸

Cost recovery measures

- 3.129 Concerns about the viability of businesses within the road transport industry featured heavily in evidence before the committee. The committee heard that for the road transport industry to thrive, there needed to be an opportunity for all business owners in the supply chain—'employers, principal contractors, fleet owners, subcontractors, owner-drivers and gig workers in the industry'—to achieve cost recovery and profit.¹²⁹
- 3.130 Inquiry participants informed the committee that at the top of the supply chain are 'major clients which contract out work and set the prices for transport operators and drivers across the transport industry'.¹³⁰ Due to a market imbalance¹³¹, road freight operators have difficulty negotiating sustainable rates that take into account fluctuations in costs such as fuel and vehicle maintenance.¹³²
- 3.131 The TWU observed that the industry had experienced 'a lowering of transport contract values and more onerous contract terms (such as 120-day payments) which result in tight margins and low capital flows'.¹³³
- 3.132 Mr Simon O'Hara, chief executive of Road Freight NSW, was emphatic that there had to be viability for small businesses and that the freight industry 'can't become the purview of only those large, large companies that have economies of scale and can survive'.¹³⁴

¹²⁷ NatRoad, *Submission 47*, p. 6.

¹²⁸ Mr Steven Ronson, Executive Director, Enforcement, Fair Work Ombudsman, *Committee Hansard*, 28 April 2021, p. 58.

¹²⁹ Mr Hugh McMaster, Secretary/Treasurer, Australian Road Transport Industrial Organisation, New South Wales Branch, *Committee Hansard*, 8 February 2021, p. 2.

¹³⁰ Transport Workers' Union of Australia, *Submission 126*, p. 31.

¹³¹ Australian Livestock and Rural Transporters' Association, *Submission 12*, pp. 22–23; Transport Workers' Union of Australia, *Submission 126*, p. 31.

¹³² Roe's Holdings, *Submission 44*, p. 13.

¹³³ Transport Workers' Union of Australia, *Submission 126*, p. 31.

¹³⁴ Mr Simon O'Hara, Chief Executive Officer, Road Freight NSW, *Committee Hansard*, 8 February 2021, p. 13.

3.133 Mr Gordon Mackinlay of the National Road Freighters Association told the committee that there was now a need to 'make things better':

We're not making money out of transport. The best operators are not making money out of transport. Whilst the wage thing is important, you can't get blood out of a stone. The person who owns the vehicle has to be remunerated properly.¹³⁵

3.134 Mr Arthur Tzaneros, managing director of ACFS Port Logistics, concurred:

... it's very evident that the transport industry is under attack in so many different ways. The objective is constantly to drive costs down with no regard to employee wages, conditions, safety, environment and/or any other costs. The strong and compliant blue-ribbon companies with strong enterprise agreements, new fleets, are under threat like they've never been before. I can tell you that there needs to be an intervention soon. Otherwise, I can stand here and say that we'll be one of those companies reducing our fleet size, and we'll be resorting to subcontractors and/or the gig economy ourselves in order to compete for the long term.¹³⁶

3.135 A grim picture of the financial health of the industry was presented by the Queensland Trucking Association (QTA). It reported that over the five years from 2012–13 to 2017–18 the total national freight in vehicle tonne kilometres increased by 8.1 per cent, total national road freight industry expenses increased by 8.4 per cent, expenses relating to the purchasing of goods and materials increased by 36.4 per cent while the total national road freight industry revenue increased by only 7.1 per cent. The QTA concluded:

When adjusting for changes in total tonne-kilometres total road freight industry revenue has actually fallen by 0.9 per cent and total road freight industry operating profits before taxes have fallen by 8.5 per cent.

In summary, over the last 5 years for every \$1 increase in revenue there has been on average for each operator ... a \$1.81 increase in expenses. As a result, 13,754 Australian transport operators have ceased to exist over the past two years as business viability has been eroded. Furthermore 14 per cent of the industry are now anticipated to be operating at a loss.¹³⁷

3.136 QTA chief executive Gary Mahon told the committee that freight rates 'have not changed much in the last 15 years' but 'as a sweeping generalisation, I would suggest that most road freight businesses would have had a good year if they're in the vicinity of 4c to 5c on the dollar net'.¹³⁸

¹³⁵ Mr Gordon Mackinlay, Member, National Road Freighters Association, *Committee Hansard*, 28 April 2021, p. 15.

¹³⁶ Mr Arthur Tzaneros, Chief Executive Officer and Managing Director, ACFS Port Logistics, *Committee Hansard*, 29 April 2021, p. 36.

¹³⁷ Queensland Trucking Association, *Submission 69*, pp. 2–3.

¹³⁸ Mr Gary Mahon, Chief Executive Officer, Queensland Trucking Association, *Committee Hansard*, 24 July 2020, p. 36.

3.137 In the experience of members of NatRoad, '2–3% profit margin is common, albeit not a sustainable level'.¹³⁹ NatRoad observed:

A significant number face business viability issues associated with their lack of power in the market and poor profit margins. Further, these small businesses lack economies of scale and suffer increased safety and operating costs.¹⁴⁰

3.138 Mr Campbell Dumesny, chief executive officer of the Western Australian Transport Industry Association, noted that for an industry that 'runs at between a three and five per cent gross margin', operators are reporting that they can be undercut by 18 per cent, even for the 'same vehicle combinations on the same routes'. With little ability to get fuel costs down, 'You can either squeeze maintenance or you squeeze wages'.¹⁴¹

3.139 The Victorian Transport Association described the result of the 'slow death' of a 'business model that is unable to sustain the cash flow and margins':

In Australia in 2017–18 we had more than 369 businesses revert to bankruptcy in the transport industry. Mainly small businesses but indicative of what the industry is facing based upon the inability of the industry to set minimum cost standards that would ensure sustainability for a transport business.¹⁴²

Operating costs

3.140 Capital costs in the road transport industry are high, with the average price of an efficient prime mover and B-double combination in the region of \$650 000.¹⁴³ The committee was informed by trucking company owners that it cost \$16 000 annually for a road ready truck, including registration, insurance, permits and accreditation.¹⁴⁴ Insurance premiums alone could total over \$10,500 per employee per year.¹⁴⁵

3.141 Submitters and witnesses argued that there needed to be a 'level playing field' on registration costs and that it was unfair that independent contractors paid the same for registration as major fleet vehicles which travelled greater

¹³⁹ NatRoad, *Submission 47*, p. 4.

¹⁴⁰ NatRoad, *Submission 47*, p. 5.

¹⁴¹ Mr Campbell Dumesny, Chief Executive Officer of the Western Australian Transport Industry Association, *Committee Hansard*, 26 November 2020, pp. 16–18.

¹⁴² Victorian Transport Association, *Submission 94*, p. 9.

¹⁴³ Queensland Trucking Association, *Submission 69*, p. 2.

¹⁴⁴ Mr Glenn Kendall, Owner-Operator, Kendall Trucking and Co, *Committee Hansard*, 26 November 2020, p. 32.

¹⁴⁵ Mr Mark Mazza, *Submission 4*, p. 2.

distances and in some jurisdictions, with greater loads.¹⁴⁶ The National Road Freighters Association argued in favour of a nominal registration fee, regardless of the number of trailers, and that operators pay additional road user charges based on fuel consumed.¹⁴⁷

Port charges

3.142 Evidence was provided by Mr Simon O'Hara of Road Freight NSW, of port infrastructure and access fee increases by stevedore companies since 2017 of between 350 and 750 per cent. He argued that operators get no increased productivity for paying these fees, and that the costs are difficult to pass onto clients.¹⁴⁸

3.143 Mr Arthur Tzaneros added that when transport companies passed the port fees on to clients, the clients went 'straight to tender'. Mr Tzaneros explained that in the renegotiations following the port fee increases, as the port fees are fixed, the transport fee 'is the fee that is actually tumbling whilst the overall charge to the customer is still increasing'. Mr Tzaneros also reported on the introduction of a 'long-vehicle fee' aimed at high productivity vehicles accessing ports. As a result, his company had 'doubled the number of trucks on the road, just so we don't attract this fee'.¹⁴⁹

3.144 The Australian Competition and Consumer Commission (ACCC) in its 2019–20 monitoring report on container stevedoring found that despite the effect of COVID-19, in the second half of the monitoring period the total revenues of the stevedores it monitored 'increased by \$38.9 million, or 2.8 per cent, despite a significant drop in container volumes'. The ACCC attributed this to the increases in terminal access charges, which had increased 'by \$87.6 million, or 51.9 per cent, since 2018–19'.¹⁵⁰

3.145 NatRoad submitted that landside port charges 'must be consistently regulated by the independent price regulator and recognised as a cost to the heavy vehicle sector in any [road reform] proposals'.¹⁵¹

¹⁴⁶ Mr Jerry Brown-Sarre, *Submission 9*, pp. 16, 22. See also Mr Ray Pratt, *Submission 51*, p. 1; Mr Shane Jeffrey, *Submission 36*, p. 2; Mr Graeme Nicholson, *Submission 86*, p. 1; Engineers Australia, *Submission 88*, p. 13.

¹⁴⁷ Mr Gordon Mackinlay, President, Road Freighters Association, *Committee Hansard*, 22 November 2019, p. 20.

¹⁴⁸ Document tabled by Mr Simon O'Hara of Road Freight NSW at a public hearing in Sydney, 8 February 2021; Mr Simon O'Hara, Chief Executive Officer, Road Freight NSW, *Committee Hansard*, 8 February 2021, p. 12.

¹⁴⁹ Mr Arthur Tzaneros, Chief Executive Officer and Managing Director, ACFS Port Logistics, *Committee Hansard*, 29 April 2021, pp. 34, 35.

¹⁵⁰ Australian Competition and Consumer Commission, *Container stevedoring monitoring report, 2019–20*, October 2020, p. 5.

¹⁵¹ NatRoad, *Submission 47*, p. 34. See also Queensland Trucking Association, *Submission 69*, p. 6.

Tolls

3.146 Tolls were singled out by industry stakeholders as a major burden on the industry. A small family regional transport company reported that it's 'nothing to spend \$400 a week in tolls'.¹⁵² For Australia's largest mover of freight, Toll Group, the cost of tolls run to \$15–\$20 million per year.¹⁵³ Many companies struggle to recoup toll fees from their customers and independent contractors do not generally have toll fee recovery as part of their rates.

3.147 To NatRoad, heavy vehicle operators were effectively 'paying for road network improvements through increases in tolls without experiencing the promised efficiencies'.¹⁵⁴ Toll Group also argued that there was no evidence of value for money in higher tolls:

An analysis of one of Toll's Victorian based manufacturing customers found that toll charges have doubled, increasing by \$500,000 since April 2017, with little to no travel time savings. An analysis of 12 routes found that travel times increased by 1.3 per cent, while fees increased by 100 per cent.¹⁵⁵

3.148 Some transport companies chose work locations or used suburban streets that allowed them to avoid paying tolls. However, increasingly drivers had no choice but to use toll roads. Toll Group reported that the New South Wales Government announced that with the opening of NorthConnex, 'trucks and buses (over 12.5m long or over 2.8m clearance height) travelling between the M1 and M2 will need to use the NorthConnex tunnels unless they have a genuine delivery or pick up destination only accessible via Pennant Hills Road or meet certain exclusion criteria'. Gantries on Pennant Hills Road monitor heavy vehicle use with fines for buses and trucks that do not comply.¹⁵⁶

3.149 To Mr Simon O'Hara, drivers should be incentivised, rather than deterred from or forced to use toll roads, especially in non-peak periods:

There are a range of ways. The first would be that you give them reduced tolls, that you look at a tolling system that rewards off-peak travel or that you deliver it through registration costs ... From our perspective, there's a safety component here as well; it's not just about saving money.¹⁵⁷

¹⁵² Mr Gordon Mackinlay, President of the National Road Freighters Association, *Committee Hansard*, 22 November 2019, p. 18.

¹⁵³ Toll Group, *Submission 76*, p. 21.

¹⁵⁴ NatRoad, *Submission 47*, Attachment A, p. 23.

¹⁵⁵ Toll Group, *Submission 76*, p. 22.

¹⁵⁶ Toll Group, *Submission 76*, p. 21.

¹⁵⁷ Mr Simon O'Hara, Chief Executive Officer, Road Freight NSW, *Committee Hansard*, 8 February 2021, p. 12.

- 3.150 The increasing government reliance on the private sector to build roads, in the view of Toll Group, turned 'new roads into unregulated monopolies'.¹⁵⁸ Toll Group argued that with the problem of congestion and more toll roads increasing, industry needed assistance from government through an industry code administered by the ACCC. Such a code would 'set out minimum obligations for suppliers when engaging a transport operator so that safety is not compromised, unfair contract terms are removed and the race to the bottom on price is halted'.¹⁵⁹
- 3.151 NatRoad identified a lack of transparency, uniformity and fairness in setting toll fees for heavy vehicles and argued for the creation of an independent price regulator that would regulate and monitor toll fees and port charges.¹⁶⁰

Fuel

- 3.152 Operators explained that while there were some economies of scale for larger fleets,¹⁶¹ there is little scope to reduce fuel costs, which were estimated to comprise around 30 to 35 per cent of an operator's cost structure.¹⁶² Even one cent per litre increases had a huge impact on the running costs for trucks travelling hundreds of thousands of kilometres a year.¹⁶³ Several stakeholders reported that when fuel prices were at the lower end, some national carriers enforced a 'negative fuel charge' where they reduced rates to subcontractors so that they could not benefit from the lower prices.¹⁶⁴

Primary producer concessions

- 3.153 Discounted registration fees and fuel tax reductions are available for primary production vehicles so that a 'genuine primary producer, moving their own produce in their own vehicle, is able to do so at a significantly lower cost than a competing commercial carrier'.¹⁶⁵

¹⁵⁸ Toll Group, *Submission 76*, p. 21.

¹⁵⁹ Toll Group, *Submission 76*, p. 22.

¹⁶⁰ NatRoad, *Submission 47*, Attachment A, p. 23.

¹⁶¹ Mr Graeme Howell, Secretary, Livestock and Rural Transporters Association of Victoria, *Committee Hansard*, 19 April 2021, p. 37.

¹⁶² Mr Steven Shearer, Executive Officer, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 6.

¹⁶³ Mr Gordon Mackinlay, Member, National Road Freighters Association, *Committee Hansard*, 28 April 2021, p. 14.

¹⁶⁴ Mr Gordon Mackinlay, President of the National Road Freighters Association, *Committee Hansard*, 22 November 2019, p. 16; Roe's Holdings, *Submission 44*, p. 13.

¹⁶⁵ Australian Livestock and Rural Transporters Association, *Submission 12*, p. 10.

- 3.154 The committee heard that vehicles registered under primary producer schemes had been observed operating on a commercial basis and thus driving down freight rates and competing unfairly with commercial carriers.¹⁶⁶
- 3.155 Mr Wild of the Livestock and Rural Transporters Association of Queensland, ventured that the registration saving to primary producers was around \$10 000 annually, and noted that it would 'take a huge fine or a very high likelihood of being caught to overcome the economic incentive to break the rules when the registration and fuel discount are worth so much'.¹⁶⁷
- 3.156 ALRTA told the committee that a primary producer in Victoria only paid 20 per cent of the \$14,759 registration cost of a B-double combo and that in New South Wales, 'due to a special exemption, that cost is actually zero'.¹⁶⁸
- 3.157 ALRTA argued in favour of tightening up the scheme as '[persistent] non-compliance risks discontinuation of such schemes which would disadvantage legitimate users'. ALRTA recommended that vehicles operating under primary producer concession schemes be required to display 'appropriately marked registration plates' and be subject to enforcement to ensure appropriate use.¹⁶⁹
- 3.158 To Mr John Mitchell of Mitchell's Livestock Transport it was important to structure tax benefits for depreciation of transport assets and fuel rebates in a way that recognised and excluded companies that were not transport companies.¹⁷⁰

Insolvencies

- 3.159 An indicator of a sector in crisis is the rate of insolvencies, which according to the TWU is the 'strongest and clearest indicator of the economic pressure' experienced by transport operators and workers. These transport operators and workers are confronted with a difficult choice 'between having to unsustainably and dangerously intensify work or be run out of business'.¹⁷¹
- 3.160 Statistics gathered by the Australian Securities and Investment Commission (ASIC) show transport operators have one of the highest rates of insolvencies of any industry and small firms in Australia. Between 2013–14 and 2018–19,

¹⁶⁶ See, for example, Livestock & Rural Transport Association of Western Australia, *Submission 61*, p. 5; Mr Craig Hitchcock, *Submission 48*, p. 1; Mr Frank Black, *Submission 54*, p. 3.

¹⁶⁷ Mr Ian Wild, President, Livestock and Rural Transporters Association of Queensland, *Committee Hansard*, 24 July 2020, p. 45.

¹⁶⁸ Mr Mat Munro, Executive Director, Australian Livestock and Rural Transporters' Association, *Committee Hansard*, 28 April 2021, p. 37.

¹⁶⁹ Australian Livestock and Rural Transporters Association, *Submission 12*, pp. 10, 11.

¹⁷⁰ Mr John Mitchell, Chief Executive Officer, Mitchell's Livestock Transport, *Committee Hansard*, 29 April 2021, pp. 28–29.

¹⁷¹ Transport Workers' Union of Australia, *Submission 126*, p. 30.

ASIC recorded 2543 companies in the sector that had entered external administration, with bankruptcy primarily caused by 'inadequate cash flow or high cash use'. According to the TWU, this indicates 'the twin problems of low rates and late payments for transport operators'. The TWU also noted that insolvency figures are likely to be underestimated, with the vast majority going unreported.¹⁷²

¹⁷² Transport Workers' Union of Australia, *Submission 126*, p. 30.

Chapter 4

Existing regulation and enforcement mechanisms

- 4.1 Responsibility for road transport regulation is shared across all levels of government and multiple agencies and regulators. This chapter outlines the legislative framework and considers its appropriateness, relevance and adequacy for stakeholders in the road transport industry.
- 4.2 This chapter also demonstrates the need for a risk-based approach to the enforcement of safety measures as the most effective way to address road safety outcomes, rather than prosecuting individual drivers for minor breaches. This approach is supported by the Productivity Commission's review of the Heavy Vehicle National Law (HVNL) and the National Heavy Vehicle Regulator (NHVR). Further, this chapter reveals that the HVNL is not applied consistently across non-compliant operators, which provides some operators with a competitive advantage. Measures such as increased supervision and more regular audits provide scope for consistent and broad application of the HVNL across the entire road transport sector, along with the introduction of incentives to foster best practice for those businesses that comply.
- 4.3 Inconsistency in the application of HVNL, along with duplication of accreditation schemes, vehicle access to roads, the effectiveness of the law as it applies to chain of responsibility and fatigue management, were all issues raised with the committee in evidence.
- 4.4 Issues related to the HVNL discussed elsewhere in this report include changes to mass and length limit regulations (discussed in chapter 6) and the regulation of new technologies (discussed in chapter 7).

Heavy Vehicle National Law

- 4.5 The HVNL was established on 10 February 2014 to provide a single national system of laws for heavy vehicles over 4.5 tonnes gross vehicle mass. The legislative framework consists of the Heavy Vehicle National Law and five sets of regulations.¹ The HVNL replaced 13 model laws and six state and territory transport-related laws.
- 4.6 The regulatory framework under the HVNL prescribes requirements for:
- the standards heavy vehicles must meet before they can use roads;
 - the maximum permissible mass and dimensions of heavy vehicles;
 - securing and restraining loads on heavy vehicles;

¹ Links to the legislation and regulations are at <https://www.nhvr.gov.au/law-policies/heavy-vehicle-national-law-and-regulations>.

- ensuring parties in the chain of responsibility are held responsible for drivers of heavy vehicles exceeding speed limits;
 - preventing drivers of heavy vehicles from driving while impaired by fatigue; and
 - nationally consistent penalties.²
- 4.7 The National Heavy Vehicle Regulator (NHVR) regulates the heavy vehicle industry under the HVNL and aims to improve 'safety, productivity and efficiency outcomes across the heavy vehicle transport sector and the Australian economy'.³ Its responsibilities include:
- ... the National Heavy Vehicle Accreditation Scheme; Performance Based Standards (PBS) scheme; vehicle design and access approvals; heavy vehicle access permit applications; heavy vehicle standards modifications and exemption permits; national driver work diaries and the risk classification system for advanced fatigue management; and national exemption notices.⁴
- 4.8 Mr Sal Petrocchio, chief executive officer of the NHVR, describes the NHVR as a 'policy taker' whereby policy is 'developed by the jurisdictional agencies, adopted through the various state parliaments and then [the NHVR is] asked to implement that legislation'.⁵

Adoption of the HVNL

- 4.9 Queensland is the 'host' jurisdiction of the HVNL. The other participating jurisdictions—South Australia, Victoria, Tasmania and the Australian Capital Territory—have enacted the Queensland law, in order to apply the HVNL in those jurisdictions. The NHVR is 'in the process of transitioning regulatory functions from the New South Wales government and the Queensland government over the coming years'.⁶
- 4.10 Western Australia and the Northern Territory have not adopted the HVNL, choosing instead to retain their own regulatory regimes especially in the areas of vehicle accreditation, performance-based standards, fatigue management and approaches to chain of responsibility. However, the HVNL applies to vehicles from these jurisdictions if they cross the state or territory border.

² Transport for NSW, *Law and regulations—frequently asked questions*, <https://www.rms.nsw.gov.au/business-industry/heavy-vehicles/national-heavy-vehicle-regulator/law-regulations.html> (accessed 20 January 2021).

³ National Heavy Vehicle Regulator, *Submission 52*, p. 2.

⁴ National Heavy Vehicle Regulator, *Submission 52*, p. 2.

⁵ Mr Sal Petrocchio, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 29 April 2021, p. 6.

⁶ Mr Sal Petrocchio, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 29 April 2021, p. 6.

Some reasons for the retention of state laws were suggested by the Productivity Commission:

Both jurisdictions apply a less prescriptive approach than the HVNL, and both consider that their legislation is better suited for local conditions while delivering at least comparable safety and productivity benefits. In the case of Western Australia, most interstate freight is delivered by rail rather than road, reducing (but not eliminating) the regulatory costs of different regimes across jurisdictions.⁷

4.11 With respect to the Northern Territory, the Productivity Commission added:

The Northern Territory has generally continued with a light-handed approach (for example, heavy vehicles can use all roads in the territory, with the exception of specified urban roads). In some instances, they have adopted aspects of the HVNL, including the heavy vehicle standards published in the NHVIM [National Heavy Vehicle Inspection Manual]. The Northern Territory also offers flexibility to heavy vehicle operators by allowing operators to comply with their choice of the NT, WA or HVNL schemes.⁸

Derogations

4.12 Derogations occur when some jurisdictions, when enacting the national laws, choose to exclude, add to, or modify sections of the national law in their jurisdiction. Often these are administrative or technical in nature.

4.13 In late 2019 there were over 70 derogations from the HVNL, with 25 in New South Wales alone. Enforcement provisions account for most derogations in the HVNL, creating inconsistent application of enforcement powers. One significant inconsistency relates to periodic vehicle inspections, which are required annually in some jurisdictions but not at all in other jurisdictions.⁹

Productivity Commission review—National Transport Regulatory Reform

4.14 In April 2019, the Productivity Commission (PC) was tasked with assessing the economic impact of reforms to transport regulation agreed to by the Council of Australian Governments (COAG) in 2008–09.¹⁰ Those reforms related to heavy vehicle safety and productivity, rail safety and maritime safety. The PC was

⁷ Productivity Commission, *National Transport Regulatory Reform, Draft Report: Overview and Recommendations*, November 2019, p. 7, <https://apo.org.au/node/267336> (accessed 20 January 2021).

⁸ Productivity Commission, *National Transport Regulatory Reform*, Productivity Commission Inquiry Report No. 94, 7 April 2020, p. 69.

⁹ Productivity Commission, *National Transport Regulatory Reform, Draft Report: Overview and Recommendations*, November 2019, p. 7, <https://apo.org.au/node/267336> (accessed 20 January 2021).

¹⁰ See Productivity Commission, *National Transport Regulatory Reform*, <https://www.pc.gov.au/inquiries/completed/transport/report> (accessed 20 January 2021).

also asked to recommend further reforms towards a more integrated national market for transport services.

- 4.15 The PC presented its final report to the government on 7 April 2020 and it was released to the public on 1 October 2020.
- 4.16 The PC noted that the transition to the national laws and regulations for heavy vehicles were almost complete, with Western Australia and the Northern Territory operating outside the national heavy vehicle regime. Unnecessary derogations from the HVNL continued and approvals for heavy vehicle access to local roads still lagged in some areas.¹¹
- 4.17 The PC compared crashes involving injury or death per billion vehicle kilometres travelled by heavy vehicles in jurisdictions subject to the HVNL with heavy vehicles in non-HVNL jurisdictions. The PC concluded 'there is insufficient evidence to conclude that adopting the HVNL had a significant effect on heavy vehicle safety outcomes'.¹²
- 4.18 The PC noted that heavy vehicle safety had continued to improve, although largely due to new technology and infrastructure investments and suggested that 'a more flexible, outcomes-based approach' should improve safety further.¹³
- 4.19 The PC also observed that efficiency gains for heavy vehicle operators had not been achieved to the extent expected. Road access for larger trucks had improved, but 'significant bottlenecks remain on some major freight corridors'.¹⁴
- 4.20 The PC suggested a number of ways in which the regulators and industry could further promote safety and productivity:
- **Striking a balance between prescription and outcomes-based approaches in safety regulation** by removing unnecessary prescriptive detail from the HVNL and allowing operators to choose between following prescriptive regulation or adopting a more flexible approach with the regulator's approval.

¹¹ Productivity Commission, *National Transport Regulatory Reform*, Productivity Commission Inquiry Report No. 94, 7 April 2020, p. 2.

¹² Productivity Commission, *National Transport Regulatory Reform*, Productivity Commission Inquiry Report, No. 94, 7 April 2020, www.pc.gov.au/inquiries/completed/transport/report/transport.pdf (accessed 20 January 2021), pp. 148–149.

¹³ Productivity Commission, *National Transport Regulatory Reform*, Productivity Commission Inquiry Report, No. 94, 7 April 2020, www.pc.gov.au/inquiries/completed/transport/report/transport.pdf (accessed 20 January 2021), p. 2.

¹⁴ Productivity Commission, *National Transport Regulatory Reform*, Productivity Commission Inquiry Report, No. 94, 7 April 2020, www.pc.gov.au/inquiries/completed/transport/report/transport.pdf (accessed 20 January 2021), p. 2.

- **Emphasising risk-based approaches to improving safety and consistency** by removing unjustified derogations and streamlining the Australian Design Rule processes for heavy vehicles.
- **Improving infrastructure provision and management** by progressing Heavy Vehicle Road Reform.
- **Improving the evidence base for policy and regulatory decisions** by establishing 'no blame' incident investigation, harnessing telematics data to inform infrastructure investment and access management and improving safety and compliance cost data collected by regulators.¹⁵

4.21 Despite the findings of the PC that there was insufficient evidence that HVNL had improved safety outcomes, it made the following recommendations:

- transferring all regulatory functions still held by participating jurisdictions to the NHVR by 2022 (recommendation 4.2);
- introducing or continuing to support education programs to improve road users' understanding of driving safely around heavy vehicles (recommendation 6.1);
- amending the HVNL to clarify obligations of transport operators and other parties under chain of responsibility laws (recommendation 6.1);
- removing unnecessarily prescriptive elements from the HVNL and supporting greater use of 'deemed to comply' provisions (recommendation 9.1);
- allowing for both 'relatively prescriptive regulation' to operate alongside 'outcomes-based options' (recommendation 10.1);
- removing derogations (recommendation 4.1);
- promoting a risk-based fatigue management approach including by setting outer limits on driving hours (recommendation 6.3);
- amending the Australian Design Rules to allow for new technologies with proven productivity or safety benefits (recommendation 8.1);
- expanding heavy vehicle access networks, facilitating a risk-based assessment of access permits and addressing processing times (recommendations 7.3–7.5); and
- enabling the Australian Transport Safety Bureau to conduct no-blame investigation and research into heavy vehicle incidents (recommendation 9.4).¹⁶

National Transport Commission – Heavy Vehicle National Law Review

¹⁵ Productivity Commission, *National Transport Regulatory Reform, Productivity Commission Inquiry Report: Overview and Recommendations*, No. 94, 7 April 2020, p. 2.

¹⁶ Productivity Commission, *National Transport Regulatory Reform, Productivity Commission Inquiry Report*, No. 94, 7 April 2020, www.pc.gov.au/inquiries/completed/transport/report/transport.pdf (accessed 20 January 2021), pp. 22–35.

- 4.22 The National Transport Commission (NTC) is a statutory body accountable to the Infrastructure and Transport Ministers' Meeting (formerly the COAG Transport and Infrastructure Council), which comprises Commonwealth, state and territory transport ministers.
- 4.23 The NTC is responsible for establishing and maintaining national laws for road, rail and intermodal transport including the Australian Road Rules, Australian Code for the Transport of Dangerous Goods by Road and Rail, and the HVNL.¹⁷
- 4.24 The purpose of the NTC review was to create a simplified, modern law to:
- improve safety for all road users;
 - support increased economic productivity and innovation;
 - simplify administration and enforcement of the law;
 - support the use of new technologies and methods of operation; and
 - provide flexible, outcome-focused compliance options.¹⁸
- 4.25 In November 2018, the NTC was asked to review the HVNL and its supporting regulations.¹⁹ The NTC released a summary of its consultations in January 2020 and a consultation regulation impact statement in June 2020. Final policy directions and an implementation plan to deliver a new HVNL were due to be presented to ministers in May 2021, after which the drafting of new legislation would commence.²⁰
- 4.26 The consultation regulation impact statement reported that the review had 'not found a case for repealing or overhauling the HVNL in its entirety' but had instead identified 'a suite of incremental improvements'. It also identified areas for industry reform including improving vehicle access by expanding both the mass and dimensions limits and improving the efficiency of access authorisations; streamlining the performance-based standards approval process; using technology such as on-board mass devices and fatigue and driver distraction monitoring devices to aid compliance; and improving the regulation of fatigue and creating a more effective assurance scheme.²¹

Harmonisation

¹⁷ Mr Michael Hopkins, Executive Leader, Strategy and Government Relations, National Transport Commission, *Committee Hansard*, 20 April 2021, p. 1.

¹⁸ National Transport Commission, Heavy Vehicle National Law Review, <https://hvnreview.ntc.gov.au/> (accessed 30 April 2021).

¹⁹ See National Transport Commission, *Heavy Vehicle National Law Review*, <https://hvnreview.ntc.gov.au/> (accessed 30 April 2021).

²⁰ Ms Mandi Mees, Acting Executive Leader, Regulatory Reform, National Transport Commission, *Committee Hansard*, 20 April 2021, p. 2.

²¹ Frontier Economics, *HVNL Review Consultation Regulation Impact Statement*, 25 June 2020, p. 5.

4.27 Several of the larger transport operators in their submissions to the committee were in favour of completing the harmonisation of heavy vehicle regulation across Australia. Toll Group, whose operations traverse state and territory borders, supported having a uniform regulatory regime:

... one rule book for heavy vehicles and heavy vehicle drivers across the country. No variations, no exceptions. This must cover a standard definition of a heavy vehicle as well as a national approach to mandatory stationary rest times for heavy vehicle drivers, speed limits for heavy vehicles and a driver licensing system.²²

4.28 ALDI considered lack of harmonisation a 'drain on efficiency' and advocated that the NHVR 'should be allowed to carry out its harmonisation agenda properly and deliver the productivity and safety benefits to the industry that it was set up to deliver'.²³ To the Livestock and Rural Transporters' Association of Victoria, 'harmonising legislation and regulation is just good business' for the many operators who work across state borders.²⁴

4.29 In the view of the National Road Transport Association (NatRoad), which represents road freight transport operators, the design of the HVNL and the 'slow development of appropriate and effective policies' was due in large part to the states having the power to make laws for road transport.²⁵

4.30 The peak body representing road transport companies servicing the agricultural supply chain, the Australian Livestock and Rural Transporters' Association (ALRTA), also drew attention to the 'complex and overlapping' regulatory responsibilities of state and federal government agencies. ALRTA's ideal solution was for a single body for heavy vehicle regulation:

If Australia is ever to achieve world's best infrastructure provisions and heavy vehicle regulation it will be necessary for Australian Governments to embark on a bold journey during which the current 'silo' approach is abolished with key powers referred to a new statutory authority with jurisdiction to regulate all facets of road transport relating to vehicle standards (pre and post service), driver licencing, training, health, charging, infrastructure, access, compliance and enforcement.²⁶

4.31 The need for resilient cross-border supply chains and state cooperation was brought into stark relief by the COVID-19 pandemic. Mr Mark Mazurek, chief executive officer of Linfox Logistics, elaborated that:

²² Toll Group, *Submission 76*, p. 11.

²³ ALDI, *Submission 18*, p. 12.

²⁴ Livestock and Rural Transporters Association of Victoria, *Submission 62*, p. 7.

²⁵ NatRoad, *Submission 47*, p. 11.

²⁶ Australian Livestock and Rural Transporters' Association, *Submission 12*, p. 19.

The pandemic has served to highlight the weaknesses in our road transport systems. There are other frailties in the interstate network, but road is especially vulnerable. Panic driven fluctuations have certainly created a lot of stress and concern for the industry. Overnight border closures almost turned off the entire road transport business overnight.²⁷

- 4.32 Linfox supported harmonisation and called for 'deeper national and sector-wide coordination' to reinforce supply chains and ensure the success of business.²⁸
- 4.33 In its submission to the committee, the NHVR identified harmonised law as a reform priority for the organisation. It signalled its intention to work to reduce duplication and inconsistencies across state and territory borders and to transition compliance functions 'from jurisdictions to the NHVR'.²⁹ Mr Petrocitto also conceded that 'there are provisions in the Western Australian legislation that are very beneficial that would be good to have within the HVNL'.³⁰
- 4.34 The committee also heard from a number of stakeholders from jurisdictions outside the HVNL.
- 4.35 The Northern Territory Department of Infrastructure, Planning and Logistics stated that the Northern Territory's position was to not support the national law as the productivity benefits in implementing it—estimated at \$2.1 million over 20 years—were not great. In its submission it further noted that the 'NT continues to participate in the national arena to harmonise heavy vehicle regulation where possible, and works with the NHVR on relevant national enforcement activities'.³¹
- 4.36 Grain handlers CBH Group, in considering Western Australia adopting the HVNL, argued:

...that decision would require extensive consultation with the road transport industry and users, and should balance any benefits of the national system against not only ... the resulting increased regulatory compliance cost, but also the significant safety and productivity

²⁷ Mr Mark Mazurek, Chief Executive Officer, Linfox Logistics Australia and New Zealand, *Committee Hansard*, 19 April 2021, p. 55.

²⁸ Mr Mark Mazurek, Chief Executive Officer, Linfox Logistics Australia and New Zealand, *Committee Hansard*, 19 April 2021, p. 56; Mr Peter Fox, Executive Chairman, Linfox, *Committee Hansard*, 19 April 2021, p. 57.

²⁹ National Heavy Vehicle Regulator, *Submission 52*, p. 4.

³⁰ Mr Sal Petrocitto, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 29 April 2021, p. 9.

³¹ Northern Territory Department of Infrastructure, Planning and Logistics, *Submission 49*, p. 6.

efficiencies that have been gained at the local level which may not be available under the national system.³²

- 4.37 The Livestock and Rural Transport Association of Western Australia (LRTAWA) opposed Western Australia joining the HVNL on the basis that 'there is no evidence it will benefit the majority of WA transport companies'. LRTAWA argued that the HVNL is focused on line haul operations when '95% of WA's freight task is conducted intrastate'. Furthermore it considered the HVNL to be 'outdated, complex, long, prescriptive' and 'not supportive of road safety outcomes' while the WA system was 'agile and responsive to industry needs'.³³ LRTAWA was, however, supportive of:

... increased mutual recognition that would enable reciprocal acceptance of fatigue and accreditation systems as well as access for combinations not provided by either of the systems. Mutual recognition would enable the differences between jurisdictions to be smoothed out whilst in the case of WA, retain the inherent strength of the local system. WA and participating NHVR jurisdictions should continue to learn from one another and share IT systems and know-how where appropriate.³⁴

- 4.38 In their joint submission, the Western Roads Federation and the Northern Territory Road Transport Association suggested that an industry working group be formed to collaborate on achieving national harmonisation. It suggested that the group include current organisations already collaborating on achieving national harmonisation, namely, the Victorian Transport Association, Northern Territory Road Transport Association, NatRoad and the Western Roads Federation.³⁵

- 4.39 Mr Glyn Castanelli, a registered auditor for both the national and Western Australian schemes, expressed the view that claims of the differences in the laws across jurisdictions had been overstated and that aside from 'a small difference in driving hours':

The standards for heavy vehicles between NHVAS and WAHVA jurisdictions are very similar. In fact, if you read them, a lot of them are actually word for word the same. I can't say the laws governing it are exactly the same, but the way the law is implemented on [the eastern] side of the country is that it is a law enforcement problem, and over on the other side of the country it's a workplace health and safety problem. That is really the only difference.³⁶

³² CBH Group, *Submission 68*, p. 6.

³³ Livestock and Rural Transport Association of Western Australia, *Submission 61*, pp. 4-5.

³⁴ Livestock and Rural Transport Association of Western Australia, *Submission 61*, p. 5.

³⁵ Western Roads Federation/NT Road Transport Association, *Submission 82*, p. 1.

³⁶ Mr Glyn Castanelli, Secretary, National Road Freighters Association, *Committee Hansard*, 19 April 2021, p. 52.

- 4.40 Fatigue management and vehicle access under the HVNL and Western Australian and Northern Territory systems are discussed in more detail later in the chapter.

Enforcement

- 4.41 On-road compliance and enforcement of the HVNL is undertaken by the NHVR, state and territory road transport authorities and police.³⁷ Regulatory areas commonly subject to enforcement include driver fatigue and work diary requirements, vehicle standards, mass and dimensions of heavy vehicles and load restraint.³⁸

- 4.42 Many submitters and witnesses told the committee that enforcement regimes were unfair on drivers, subjecting them to unnecessary fines and hardship for what in many cases amounted to technical or administrative errors such as in work diaries.³⁹ Mr Campbell Dumesny, chief executive officer of the Western Roads Federation, told the committee:

We had a driver in a two-up team who was sleeping in the cab, in the bunk, and he was woken up by the police enforcement team in South Australia and asked to produce his logbook. He had not signed his logbook off before he had gone to have a rest. The fine was \$750.⁴⁰

- 4.43 Ms Janelle Whale, a principal with Ainslie Law, a legal firm which represents heavy vehicle operators and drivers charged under the HVNL, outlined the range of fines to which drivers are subject:

... the maximum penalty, if it goes to court, for forgetting to tick a box or signing the bottom of the page—any minor problems with a work diary page—is \$1,500 ... It goes up with CPI, so it's about \$1,680 or something at the moment. The ticket roadside is \$168, but once you get into the scaled fatigue offences, they can go up to \$15,000, \$10,000 and so on.⁴¹

- 4.44 Ms Roxanne Mysko, chief executive officer of the United Transport Group, elaborated further on the effect of fines on drivers:

³⁷ Productivity Commission, *National Transport Regulatory Reform*, Productivity Commission Inquiry Report No. 94, 7 April 2020, p. 103.

³⁸ National Heavy Vehicle Regulator, *On-road compliance and enforcement*, <https://www.nhvr.gov.au/safety-accreditation-compliance/on-road-compliance-and-enforcement> (accessed 10 May 2021).

³⁹ See, for example, Mr Robert Bell, *Committee Hansard*, 9 February 2021, p. 31; Mr Rod Hannifey, *Submission 45*, p. 5; Ms Roxanne Mysko, Chief Executive Officer, United Transport Group, *Committee Hansard*, 9 February 2021, p. 37; Mr Jerry Brown-Sarre, *Submission 9*, pp. 4, 13; Mr Andrew Bishop, *Committee Hansard*, 22 November 2019, pp. 29, 34; Australian Logistics Council, *Submission 63*, p. 7; Mr Peter Simpson, *Committee Hansard*, 20 April 2021, p. 40.

⁴⁰ Mr Campbell Dumesny, Chief Executive Officer, Western Roads Federation, *Committee Hansard*, 26 November 2020, p. 14.

⁴¹ Ms Janelle Whale, Principal, Ainsley Law, *Committee Hansard*, 8 February 2021, p. 41.

With the intimidation and the costs of the fines, these are now totally outstripping what these truck drivers are actually earning and, probably in a lot of cases, on the volume of profit they are actually making out of the freight that they are moving.⁴²

4.45 The Australian Logistics Council (ALC) argued that enforcement carried out by diverse bodies including the 'NHVR, authorised officers, state and territory road authorities and state and territory police forces' is resulting in inconsistencies, minor infractions and insufficient driver education. In the ALC's view, the NHVR and state police forces should enter into a memorandum of understanding to establish greater national consistency regarding how and when police officers should exercise the powers vested in them by the HVNL.⁴³ Mr Rod Hannifey, president of the National Road Freighters' Association, went further to suggest the removal of police powers to enforce the HVNL.⁴⁴

4.46 A specific inconsistency in the enforcement of the laws identified by Ainslie Law was where drivers received separate charges for multiple offences for logbook pages that had already been signed off on by a previous inspection officer. Ainslie Law argued that the practice was unfair, as had the mistake been identified earlier, the driver would have had an opportunity to correct their behaviour. Ms Whale also argued that there is an educative role for enforcement officers:

Transport officers and police, when they pull drivers over, are actually in a really powerful position to be able to guide drivers to get these things right. When they look back through work diaries, there are some officers who will say, 'Look, you need to make sure you're doing this,' or 'Just be careful when you're counting that.' Rather than charging them, they give them that instruction so that, moving forward, they're doing the right thing. That's quite helpful, but a more organised training regime around all of that would avoid all of these issues.⁴⁵

4.47 Ainsley Law argued that an unjust application of the HVNL affects the relationship between drivers and the authorities, with an 'us and them' perception developing among drivers instead of a common purpose to make conditions safer for drivers and the community.⁴⁶

⁴² Ms Roxanne Mysko, Chief Executive Officer, United Transport Group, *Committee Hansard*, 9 February 2021, p. 38.

⁴³ Australian Logistics Council, *Submission 63*, p. 12.

⁴⁴ Mr Rod Hannifey, President, National Road Freighters Association, *Committee Hansard*, 29 April 2021, p. 40.

⁴⁵ Ms Janelle Whale, Principal, Ainsley Law, *Committee Hansard*, 8 February 2021, p. 42.

⁴⁶ Ms Janelle Whale, Principal, Ainsley Law, *Committee Hansard*, 8 February 2021, p. 42.

4.48 The NHVR submitted that it is focused on shifting from a reliance on on-road enforcement to 'engagement, education and then sanctions', informed by data on areas posing the greatest safety risks. It argued that a risk-based, data- and intelligence-led approach will enable it to target the areas of greatest safety risk.⁴⁷ Mr Petrocitto told the committee:

I don't want my officers blistering someone because they've spelt a name wrong. I don't want my officers issuing an infringement because there's a cracked mudflap on the back of the truck. What I'd rather they do and what we are doing is educate the driver on the importance of making sure that those systems or facilities are appropriately managed ... Industry would be the first one to mention that, if someone is doing the wrong thing, they expect you to act. But industry would also say to you, if they've honestly made a mistake, they would like the opportunity to learn from that mistake and do things better, and that's the approach we're aiming to adopt.⁴⁸

4.49 To Mr Tim Dawson, branch secretary of the Western Australian Transport Workers' Union, a highly punitive regulatory system does not address the systemic issues where large businesses exert pressure on operators and drivers. Mr Dawson argued that the majority of operators are professional but the system in which they operate forces them to cut corners and take risks because 'if they do get caught, at the end of the day it's worth that risk to try and win contracts'.⁴⁹

4.50 This view was taken further by Mr Campbell Dumesny who argued in favour of more on-road enforcement for transport companies. From his perspective, companies that meet compliance standards spend money to employ officers with expertise in compliance, safety and driver training:

But they're being undercut by other operators who don't do that, who just cheat the system. Because there's no enforcement on the road—this is a national problem—they get away with it. If the risk of getting caught is low, if the profits are higher and the consequences are not much, then you will continue to have cheating, and that needs to be addressed.⁵⁰

4.51 The independent research and consulting group, Transport and Logistics Centre (TALC), saw a need for 'consistent and regular enforcement of regulations on parties at all levels of the CoR [chain of responsibility]'. This would include whistle-blower protections for truck drivers to enable them to

⁴⁷ National Heavy Vehicle Regulator, *Submission 52*, pp. 2–4.

⁴⁸ Mr Sal Petrocitto, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 29 April 2021, p. 8.

⁴⁹ Mr Tim Dawson, Branch Secretary, Transport Workers' Union Western Australia, *Committee Hansard*, 26 November 2020, p. 2.

⁵⁰ Mr Campbell Dumesny, Chief Executive Officer, Western Roads Federation, *Committee Hansard*, 26 November 2020, p. 11.

safely report breaches, a 'range of sanctions and deterrents to change behaviour such as point to point cameras', 'adverse publicity for recalcitrant parties' and 'regulatory mechanisms that reach most effectively into the top layers of the CoR to influence the design of safe, healthy and productive work'.⁵¹

Chain of Responsibility

4.52 Chain of responsibility (CoR) refers to the specific legal obligations placed on people and businesses that make up the heavy vehicle supply chain. Any time a business sends or receives goods using a heavy vehicle, that business becomes part of the supply chain and is accountable for breaches or safety incidents where they have influenced non-compliance. The NHVR notes that:

A person may be a party in the supply chain in more than one way and legal liability can apply to their actions, inactions and demands. Some roles that can influence heavy vehicle safety include loading manager, consignee, operator, consignor, scheduler, packer, loader, employer, executive officer and prime contractor.⁵²

4.53 The requirements for business compliance under CoR were described for the committee by Mr Glyn Castanelli, the Secretary of the National Road Freighters' Association:

Under chain-of-responsibility laws, businesses are responsible for ensuring as far as reasonably possible that rosters and schedules do not require the driver to exceed driving-hour regulations or speeds, keeping records of driver work and rest hours and taking all reasonable steps to ensure drivers do not work while impaired or fatigued or drive in breach of their work-or-rest options, vehicles are maintained and speed limiter functions properly, vehicles are not loaded in a way that exceeds mass or dimension limits and loads are properly restrained with appropriate restraining equipment, and it's the employer's responsibility to ensure the driver is trained in all of these areas before they put them on the road.⁵³

4.54 When the HVNL commenced in February 2014, parties in the CoR were usually held responsible only after a driver had committed an on-road offence. Furthermore, parties in the chain of responsibility deemed to be liable 'sometimes did not include the most responsible party'.⁵⁴

⁵¹ Transport and Logistics Centre, *Submission 89*, p. 4.

⁵² National Heavy Vehicle Regulator, *Chain of responsibility*, September 2018, <https://www.nhvr.gov.au/files/201810-0917-brochure-cor.pdf> (accessed 20 January 2021).

⁵³ Mr Glyn Castanelli, Secretary, National Road Freighters Association, *Committee Hansard*, 19 April 2021, p. 50.

⁵⁴ Productivity Commission, *National Transport Regulatory Reform, Productivity Commission Inquiry Report*, No. 94, 7 April 2020, www.pc.gov.au/inquiries/completed/transport/report/transport.pdf (accessed 20 January 2021), p. 151.

- 4.55 In October 2018, amendments were made to the legislation, which abolished deemed liability for parties in the CoR and replaced it with a duty to 'ensure, as far as is reasonably practicable, the safety of the party's transport activities relating to the vehicle'.⁵⁵ The new legislation was modelled from workplace health and safety laws and principles.
- 4.56 Representatives of O'Brien Transport Services were supportive of CoR, with commercial manager Mr Dean O'Brien noting that the system provided a mechanism to resolve issues such as delays at distribution centres:
- Whereas before we wouldn't have the courage to go and speak to them because we didn't want to lose our contracts, we actually have to now engage with those people.⁵⁶
- 4.57 However, a large number of witnesses and submitters raised concerns about the effectiveness of CoR laws, with the Queensland Trucking Association expressing the view that 'there is little evidence that enforcement and prosecution practice has made any tangible strategy shift' in sharing responsibility along the length of the supply chain.⁵⁷
- 4.58 Mr Peter Biagini, branch secretary of the Queensland Transport Workers' Union, was sceptical of the success of the CoR laws:
- In writing it sounds good and in principle it sounds good, but it doesn't work. Whenever they come across companies that have done the wrong thing and they investigate it, the companies drag it out. They get lawyers from the top end of town involved and they get out of it ... what I've noticed over the 40-odd years I've been doing this job is it used to be a minority of companies that were cheating everybody. Now it's becoming nearly a majority.⁵⁸
- 4.59 The Australian Trucking Association (ATA) suggested an amendment to chain of responsibility legislation, namely that the prescriptive list of parties in the

⁵⁵ Heavy Vehicle National Law (Queensland), paragraph 26C(1).

⁵⁶ Mr Dean O'Brien, Commercial Manager, O'Brien Transport Services, *Committee Hansard*, 22 November 2019, p. 38.

⁵⁷ Queensland Trucking Association, *Submission 69*, p. 5. See also, for example, Mr Gary Mahon, Chief Executive Officer, Queensland Trucking Association, *Committee Hansard*, 24 July 2020, pp. 34, 37; Mr Rod Hannifey, *Submission 45*, p. 5; Mr Gordon Mackinlay, President, National Road Freighters Association, *Committee Hansard*, 22 November 2019, p. 12; Mr Ian Wild and Mr Mark Collins, Livestock and Rural Transporters Association of Queensland, *Committee Hansard*, 24 July 2020, p. 48; Ms Roxanne Mysko, Chief Executive Officer, United Transport Group, *Committee Hansard*, 25 November 2020, p. 11 and 9 February 2021, p. 38; Mr Glyn Castanelli, Secretary, National Road Freighters Association, *Committee Hansard*, 19 April 2021, p. 49; Productivity Commission, *National Transport Regulatory Reform, Overview and Recommendations: Draft Report*, November 2019, p. 13.

⁵⁸ Mr Peter Biagini, Branch Secretary, Transport Workers Union, Queensland Branch, *Committee Hansard*, 24 July 2020, p. 63.

chain be replaced with a non-exhaustive list on the grounds that if a party cannot be identified, it is not currently recognised by the law. The ATA argued that this would make the law more flexible, for example to cover online freight platforms.⁵⁹

4.60 ALRTA explained that the removal of deeming provisions meant that instead of infringements being issued 'to all chain parties connected to an offence', now when an offence occurred and an infringement was issued to one party, 'the same infringement could be issued to all other parties with an investigation needing to occur'. ALRTA indicated that in practice, insufficient investigations of other parties in the chain of responsibility were being made by the NHVR, state road authorities and police. Instead, infringements were generally only issued to the driver or operator. ALRTA argued that deeming provisions should be re-introduced.⁶⁰

4.61 To Ms Janelle Whale, there was 'little use of the chain of responsibility provisions which were introduced in 2018 in relation to fatigue offences'. Instead, 'nine times out of 10 they will just charge the driver, perhaps because that's easier'.⁶¹ Ms Whale noted that CoR laws have had most success in the area of mass and dimension offences as 'the default position is for the RMS [Roads and Maritime Services] to charge the operator of the vehicle, not the driver'.⁶² Ms Whale continued that:

If you're picking up a shipping container, the driver really isn't going to know how heavy it is; he can look at it, and it's anyone's guess. But you can sheet home responsibility to those who packed or those who did the bills of lading, so it's easier to use those provisions to essentially make it hit home and make people do the right thing.⁶³

4.62 Toll Group maintained that CoR will only work if customers are committed to safety or the penalties or public exposure for non-compliance are a sufficient deterrent. It observed that there was little evidence of CoR investigations taking place outside of New South Wales. Toll Group also remarked on the shift to shared responsibility brought about by the law:

The law infers, though doesn't explicitly state, that customers must select their freight carriers on factors other than price alone. Through the primary obligations and other provisions customers must assess the

⁵⁹ Australian Trucking Association, *Submission 91*, p. 10.

⁶⁰ Australian Livestock and Rural Transporters' Association, *Submission 12*, p. 19.

⁶¹ Ms Janelle Whale, Principal, Ainsley Law, *Committee Hansard*, 8 February 2021, pp. 41, 42.

⁶² Ms Janelle Whale, Principal, Ainsley Law, *Committee Hansard*, 8 February 2021, p. 43.

⁶³ Ms Janelle Whale, Principal, Ainsley Law, *Committee Hansard*, 8 February 2021, p. 43.

capacity of their carriers to manage the risks inherent in the transport task and make purchasing decisions accordingly.⁶⁴

- 4.63 The NHVR, in its submission to the committee, suggested that in order for the principle of shared responsibility in section 26A of the HVNL to operate effectively, consideration must be given to the introduction of an 'explicit obligation' upon parties in the CoR to consult with heavy vehicle operators or drivers 'on safety-critical issues which affect the driving task'.⁶⁵
- 4.64 The Queensland Trucking Association (QTA) raised a concern that larger transport organisations are shifting the risk on to subcontractors by asking them to sign contracts that make them responsible for CoR, 'even though they are still giving the instructions on how, when and where the work is undertaken'.⁶⁶ QTA maintained that all participants in the supply chain are meant to be responsible and larger companies need to be accountable for 'paying rates which do not allow contractors to fulfil their own CoR and statutory obligations'.⁶⁷
- 4.65 Former owner-operator Mr Timothy Squires told the committee he had observed similar behaviour:

I've seen this over many years where a subcontractor signs—I won't call it a contract; I'll call it an agreement—an agreement with a major company or a major freight user where he has to totally indemnify whoever is his hirer, basically. He has to indemnify them against any offence. Now that's over hours, over weight, regardless of whether he's seen it loaded or not. He turns up, his trailers are all locked up; he can't open them up and have a look how it's loaded. So whether it's overweight or whether they've got him out three or four hours late, they still expect him to be at his destination at the same time and yet he's indemnifying them against prosecution. What happened to chain of responsibility?⁶⁸

- 4.66 Mr John Mitchell from Mitchell's Livestock Transport raised the need for 'mandatory universal minimum standards' governing contracts between the customers (freight users) and transport companies. He advocated terms within the 'stock standard body of a contract' that put the onus for chain of responsibility on the hirer of the transport service. In Mr Mitchell's view, the contract should 'set out the risks to the freight payer of any breaches of statutory law by the contractor' as well as the responsibilities of the transport company. Mr Mitchell argued that this would make the driver 'the problem of the director of the freight user as much as it is the director of the transport

⁶⁴ Toll Group, *Submission 76*, p. 11.

⁶⁵ National Heavy Vehicle Regulator, *Submission 52*, p. 5.

⁶⁶ Queensland Trucking Association, *Submission 69*, p. 4.

⁶⁷ Queensland Trucking Association, *Submission 69*, p. 5.

⁶⁸ Mr Timothy Squires, *Committee Hansard*, 24 July 2020, p. 38.

company' Mr Mitchell also expressed the view that contracts should be mandatory for all freight engagements, from a prime contract appointment to a casual appointment.⁶⁹

- 4.67 When asked by the committee what a driver can do if they think that they have been forced to break the law or if they think that others have responsibility for an accident or incident, Mr Gary Mahon, chief executive officer of the QTA, replied:

There are a variety of places they can go. They can go to enforcement authorities. They can go to the union. They could go to associations. They could probably go to the ACCC. There are a variety, but it is complex. You heard evidence...that people feel intimidated that there are going to be consequences if they raise those issues, so it's an imperfect system and we're not going to solve it by even further treatment on truck drivers. What I'm asking for, and what we need, is broader consideration to structural change to bring about a better result.⁷⁰

Vehicle access

- 4.68 The ability for heavy vehicles to access the Australian road network is dependent on the size and mass of the vehicles and whether the road has been gazetted for general access.
- 4.69 The HVNL sets out the allowable mass and dimension requirements of general access vehicles. Vehicles or combinations of vehicles which exceed these overall dimensions are considered to be 'restricted access vehicles' (RAVs) and thus subject to restrictions on the parts of the road network that they can use. Some combinations such as B-doubles, road trains and vehicles operating at higher mass limits are also restricted.⁷¹
- 4.70 Permits to access specified roads in HVNL jurisdictions are issued by the NHVR. In 2019–20 the NHVR processed over 78 000 access permit applications, of which around 3,800 were refused by road managers. While the NHVR processing time of access requests averaged 3.86 days in 2019–20, total end-to-end processing time averaged 16.83 days due to the time required for state and local road managers to consider requests. The average total processing time has halved since 2016–17.⁷²

⁶⁹ Mr John Mitchell, Chief Executive Officer, Mitchell's Livestock Transport, *Committee Hansard*, 29 April 2021, pp. 30–31.

⁷⁰ Mr Gary Mahon, Chief Executive Officer, Queensland Trucking Association, *Committee Hansard*, 24 July 2020, p. 38.

⁷¹ National Heavy Vehicle Regulator, 'Classes of heavy vehicles', <https://www.nhvr.gov.au/road-access/mass-dimension-and-loading/classes-of-heavy-vehicles> (accessed 9 March 2021).

⁷² National Heavy Vehicle Regulator, *Annual report 2019–20*, p. 66.

- 4.71 A number of industry participants and analysts have singled out difficulties with obtaining access for restricted access vehicles as one of the main challenges facing the HVNL.⁷³ A 2019 report by Deloitte Access Economics commissioned by the Australian Trucking Association pointed to the lack of consistency across states and territories in issuing permits and the delays and lack of transparency in processing permit decisions.⁷⁴ Ms Michelle Harwood, executive director of the Tasmanian Transport Association, said that the complexity of gaining access had led to transport operators employing 'consultants who are experts in the permit process', resulting in 'additional cost to the operators that needs to be passed on to the customer'.⁷⁵
- 4.72 The National Transport Commission, in its consultation with stakeholders on heavy vehicle routes which commenced in June 2019, identified a number of access challenges including the complex process for vehicle classification and route assessment, a prescriptive and inflexible decision-making framework, inconsistent decision-making and limited risk controls.⁷⁶
- 4.73 The National Farmers' Federation (NFF) expressed the view that the 28-day timeframe in which road managers are able to deny or grant access was excessive. It argued that in the interests of economic productivity, 'the permit application timeframe should be reduced as much as possible without compromising safety'. NFF also called for guidelines for route assessments that were enforceable and mandatory to increase consistency in road manager decision-making.⁷⁷
- 4.74 NatRoad advocated for a 'radical overhaul' of the access system to one where 'pre-approvals predominate' and where access decisions are subject to external, merit-based review.⁷⁸ It submitted that:

Access for heavy vehicles is a crucial area for reform. An efficient freight supply chain should be able to operate 24 hours, 7 days a week. Requiring heavy vehicles to travel only during daylight hours or in certain specified

⁷³ See, for example, Queensland Trucking Association, *Submission 69*, p. 7; National Farmers' Federation, *Submission 77*, p. 7; Deloitte Access Economics/Australian Trucking Association, *Economic benefits of improved regulation in the Australian trucking industry*, March 2019, p. ii; Ms Michelle Harwood, Executive Director, Tasmanian Transport Association, *Committee Hansard*, 29 April 2021, p. 63.

⁷⁴ Deloitte Access Economics/Australian Trucking Association, *Economic benefits of improved regulation in the Australian trucking industry*, March 2019, pp. iii, 22–27.

⁷⁵ Ms Michelle Harwood, Executive Director, Tasmanian Transport Association, *Committee Hansard*, 29 April 2021, p. 63.

⁷⁶ National Transport Commission, *Easy access to suitable routes*, <https://hvnreview.ntc.gov.au/suitable-route> (accessed 23 April 2021).

⁷⁷ National Farmers' Federation, *Submission 77*, pp. 7, 8.

⁷⁸ NatRoad, *Submission 47*, pp. 9, 32, 33.

time periods over less-than-optimal routes impedes productivity, increases operating costs and adds to road congestion.⁷⁹

- 4.75 The Northern Territory has an open access regime for heavy vehicles which, according to the Northern Territory Department of Infrastructure, Planning and Logistics, has resulted in 'some of the largest and most productive vehicles operating on our network'.⁸⁰
- 4.76 Mr Campbell Dumesny told the committee that the access licence system in Western Australia provided a system of preapproved roads for different combination types of vehicles. For instance, a triple road train network was 'already pre-mapped on the network, so you don't need to apply for a permit'. Instead operators were accredited, after which they had free range of the approved network.⁸¹
- 4.77 Mr Dumesny explained that the associated productivity gains from pulling a triple road train meant that there was 'commercial value in our accreditation system' which was a reason for Western Australian operators being 'so defensive about keeping the National Heavy Vehicle Regulator out of Western Australia'.⁸²
- 4.78 In its submission, the NHVR identified the need to deliver 'improved productivity and access certainty with a modern access regime' as one of its three reform priorities. The NHVR noted that in its view 'the HVNL review should apply an envelope approach to network access, which groups similar vehicle characteristics into one class, rather than having multiple and unnecessary vehicle classes'.⁸³
- 4.79 Ms Michelle Harwood reported on developments in access for heavy vehicles in Tasmania where the Department of State Growth had developed the Heavy Vehicle Access Management System (HVAMS) in partnership with road managers and industry. The goal of HVAMS was 'to provide as much access as possible under notice, rather than via a permit application process' and allowed transport operators to view access options and conditions for various vehicle configurations in real time using an interactive map. Ms Harwood further explained the advantages for transport operators:

As long as they abide by those conditions, they can travel across the network here based on what the map tells them ... Permits are still

⁷⁹ NatRoad, *Submission 47*, p. 9.

⁸⁰ Northern Territory Department of Infrastructure, Planning and Logistics, *Submission 49*, p. 6.

⁸¹ Mr Campbell Dumesny, Chief Executive Officer, Western Roads Federation, *Committee Hansard*, 26 November 2020, p. 13.

⁸² Mr Campbell Dumesny, Chief Executive Officer, Western Roads Federation, *Committee Hansard*, 26 November 2020, pp. 13–14.

⁸³ National Heavy Vehicle Regulator, *Submission 52*, pp. 2, 6.

needed for some of the very highly specialised oversize overmass loads, but, in most cases, there's been a significant reduction in the need to apply for permits ...⁸⁴

4.80 Further discussion of access for high productivity vehicles and the Performance-based Standards Scheme is in chapter 7. The link between road conditions and road access is discussed in chapter 6.

Fatigue management under the HVNL

4.81 The HVNL provides the regulatory system for fatigue management for heavy vehicles in HVNL jurisdictions, with different rules applying in Western Australia and the Northern Territory. However, fatigue regulation among the HVNL jurisdictions is inconsistent, with the Productivity Commission observing that some states 'have used derogations to retain past fatigue management regulations in addition to the HVNL'.⁸⁵

4.82 The national heavy vehicle driver fatigue laws apply to heavy vehicles that conform to specified criteria (fatigue-regulated heavy vehicles). These are heavy vehicles with a Gross Vehicle Mass (GVM) of over 12 tonnes; a combination when the total of the GVM is over 12 tonnes; buses with a GVM over 4.5 tonnes fitted to carry more than 12 adults (including the driver); and a truck, or a combination including a truck, with a GVM of over 12 tonnes with a machine or implement attached.⁸⁶

4.83 A driver must not drive a fatigue-regulated heavy vehicle on a road while impaired by fatigue. The fatigue laws cover chain of responsibility, counting time, fatigue management exemptions, record keeping requirements, work and rest hours, and the work diary.

4.84 The Productivity Commission found in its national transport regulatory reform inquiry that while there was 'some evidence that fatigue-related safety outcomes have improved in recent years', it was 'not possible to isolate the effect of the HVNL on fatigue-related safety'.⁸⁷

Work and rest hours

4.85 The HVNL provides three work and rest options: standard hours, basic fatigue management (BFM) and advanced fatigue management (AFM). Under

⁸⁴ Ms Michelle Harwood, Executive Director, Tasmanian Transport Association, *Committee Hansard*, 29 April 2021, p. 63.

⁸⁵ Productivity Commission, *National Transport Regulatory Reform*, Productivity Commission Inquiry Report No. 94, 7 April 2020, p. 156.

⁸⁶ National Heavy Vehicle Regulator, *About fatigue management*, <https://www.nhvr.gov.au/safety-accreditation-compliance/fatigue-management/about> (accessed 28 January 2021).

⁸⁷ Productivity Commission, *National Transport Regulatory Reform*, Productivity Commission Inquiry Report No. 94, 7 April 2020, p. 156.

standard hours, drivers must not exceed maximum work hour limits or rest less than the minimum rest hours in a certain period set out by law. Table 4.1 sets out the requirements for solo drivers under standard hours.

Table 4.1 Standard hours - work and rest hour requirement (solo drivers)

Time	Work	Rest
<i>In any period of...</i>	<i>A driver must not work for more than a maximum of...</i>	<i>And must have the rest of that period off work with at least a minimum rest break of...</i>
5.5 hours	5.25 hours work time	15 continuous minutes rest time
8 hours	7.5 hours work time	30 minutes rest time in blocks of 15 continuous minutes
11 hours	10 hours work time	60 minutes rest time in blocks of 15 continuous minutes
24 hours	12 hours work time	7 continuous hours stationary rest time*
7 days	72 hours work time	24 continuous hours stationary rest time
14 days	144 hours work time	2 x night rest breaks# and 2 x night rest breaks taken on consecutive days

Source: NHVR, Standard hours, <https://www.nhvr.gov.au/safety-accreditation-compliance/fatigue-management/work-and-rest-requirements/standard-hours> (accessed 31 January 2021).

*Stationary rest time is the time a driver spends out of a regulated heavy vehicle or in an approved sleeper berth of a stationary regulated heavy vehicle. #Night rest breaks are seven continuous hours stationary rest time taken between the hours of 10pm on a day and 8am on the next day (using the time zone of the base of the driver) or a 24 continuous hours stationary rest break.

- 4.86 Operators with BFM accreditation have more flexibility in when drivers can work and rest. BFM allows for drivers to work up to 14 hours in a 24-hour period, compared to 12 hours for drivers operating under standard hours. See table 4.2 for the criteria for solo drivers under BFM.

Table 4.2 Basic fatigue management—work and rest hour requirement (solo drivers)

Time	Work	Rest
<i>In any period of...</i>	<i>A driver must not work for more than a maximum of...</i>	<i>And must have the rest of that period off work with at least a minimum rest break of...</i>

6 ¼ hours	6 hours work time	15 continuous minutes rest time
9 hours	8 1/2 hours work time	30 minutes rest time in blocks of 15 continuous minutes
12 hours	11 hours work time	60 minutes rest time in blocks of 15 continuous minutes
24 hours	14 hours work time	7 continuous hours stationary rest time*
7 days	36 hours long/night work time**	No limit has been set
14 days	144 hours work time	24 continuous hours stationary rest time taken after no more than 84 hours work time and 24 continuous hours stationary rest time and 2 x night rest breaks# and 2 x night rest breaks taken on consecutive days.

*Stationary rest time is the time a driver spends out of a regulated heavy vehicle or in an approved sleeper berth of a stationary regulated heavy vehicle.

**Long/night work time is any work time (outside of the period midnight to 6.00 am) that is in excess of 12 hours of work in a 24 hour period or any work time between midnight and 6 am (or the equivalent hours in the time zone of the base of a driver).

#Night rest breaks are 7 continuous hours stationary rest time taken between the hours of 10pm on a day and 8am on the next day (using the time zone of the base of the driver) or a 24 continuous hours stationary rest break.

Source: NHVR, Standard hours, <https://www.nhvr.gov.au/safety-accreditation-compliance/fatigue-management/work-and-rest-requirements/basic-fatigue-management-bfm>

- 4.87 AFM does not prescribe work and rest hours, but rather allows fatigue to be managed to comply with a fatigue risk management system. The NHVR grants AFM accreditation to operators who can demonstrate that they 'understand the risks these hours can create' and that they 'can and will take steps to off-set these risks'.⁸⁸
- 4.88 The leading cause of fatigue within the road transport sector is the excessive hours of work required of drivers. As noted in Chapter 2, a 2001 study by the National Transport Commission found one-quarter of drivers were breaking working hours regulations for every trip and over half of drivers reported

⁸⁸ National Heavy Vehicle Regulator, *Advanced Fatigue Management (AFM)*, <https://www.nhvr.gov.au/safety-accreditation-compliance/fatigue-management/work-and-rest-requirements/advanced-fatigue-management-afm> (accessed 31 January 2021).

breaking working hours regulations for at least half of their trips. The study found the reasons for such behaviour was due to drivers wanting to return home (46.8 per cent), to gain more work to earn a living (36.5 per cent) and a result of tight schedules (31.4 per cent).⁸⁹

- 4.89 A further study conducted by the TWU in 2018 found drivers working excessively long hours, while risking their job by speaking publicly about their concerns. This was in addition to inflexibility with delivery times and pressure exerted by companies and customers for deliveries to be made “on time” without consideration of drivers’ wellbeing.⁹⁰

Views on fatigue management under the HVNL

- 4.90 Fatigue management was one of the most contentious areas of the HVNL among inquiry participants.

- 4.91 The National Driver Work Diary (also known as a logbook) is used to record a driver’s work and rest hours and provide evidence that they are compliant with the HVNL. All drivers of fatigue-regulated heavy vehicles who drive more than 100 kilometres from their base must carry and complete a work diary.

- 4.92 A common refrain among drivers required to apply the law in practice is that it had to be ‘not about counting time but about being able to rest when you need to rest and work when you can work’.⁹¹ Drivers described paradoxical situations where they had been prevented from working due to too much rest⁹²:

I've had an instance where I pulled up and went to bed for seven hours. I got up about two o'clock in the morning. I drove for two hours. I felt tired. I went back to bed for four hours, and that totally messed up my book for the next couple of days. Effectively, for that day, if I remember correctly, I worked eight hours of driving time, but the book said I was out of time.⁹³

- 4.93 Ms Sharon Middleton, president of the South Australian Road Transport Association, told the committee that the law did not take into account unexpected events on the highway. She noted the problem for a driver who

⁸⁹ Transport Workers’ Union, *Submission 126*, p. 26.

⁹⁰ Transport Workers’ Union, *Submission 126*, p. 26.

⁹¹ Ms Sharon Middleton, President, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 7. See also Mr Gordon Mackinlay, President, National Road Freighters Association, *Committee Hansard*, 22 November 2019, p. 25; Mr Jerry Brown-Sarre, *Submission 9*, p. 7; Mr Graeme Nicholson, *Committee Hansard*, 9 February 2021, p. 21.

⁹² See, for example, Mr Mick Rohloff *Submission 110*, p. 1.

⁹³ Mr Andrew Bishop, *Committee Hansard*, 22 November 2019, p. 29.

has come off two days rest and an hour into the journey is stuck at a traffic accident for five hours:

What does he do? Does he turn that into a 7½ hour break—he's just come from two days off and he's only got an hour up the road—or does he get going? Is he allowed to reset? The laws say he can't. So what happens is that for every day of that journey it will now impact not just on this week but next week and the week after. Eventually he's going to have to miss a trip, because the reset that he has, to work those longer hours, has all been thrown into turmoil, because of something that happened on the road.⁹⁴

4.94 Ainsley Law submitted that a common mistake made by its clients was incorrectly assuming that the clock is reset by the second break:

It is not uncommon for drivers to work a short shift and then take another 7 hour or longer rest break before starting work again. Many drivers believe that the clock is “reset” by the second long break. Often, some of the time from their second day is captured in the first 24 hour period. When this happens, they will have committed serious driver fatigue offences, but honestly believe they have worked two short days with more than the required amount of rest.⁹⁵

4.95 Conversely, operating rules were such that drivers were forced to stop, even if they were 30 minutes away from home or were moving livestock that would be left on the side of the road.⁹⁶

4.96 Long distance driver Mr Andrew Bishop described instances in which he and drivers in a similar position were in effect 'forced to break the law':

I had one instance where I was queuing up for seven hours to get loaded and then was expected to still get the load through to Melbourne the next morning. How do you do that? ... I had already slept all night. I can't go back to bed because as the queue moves I have to move the truck up.⁹⁷

4.97 On a second occasion, Mr Bishop was forced to defer a delivery when a loaded truck was required to undergo repairs. He explained that the 'little bit of driving which I did from our yard to the mechanics I couldn't put in my work diary because that would just mess up my whole time' for the delivery the following day.⁹⁸ Drivers argued that work pressures and practicalities meant

⁹⁴ Ms Sharon Middleton, President, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 8.

⁹⁵ Ainsley Law, *Submission 98*, p. 2.

⁹⁶ National Farmers Federation, *Submission 77*, p. 6.

⁹⁷ Mr Andrew Bishop, *Committee Hansard*, 22 November 2019, p. 28.

⁹⁸ Mr Andrew Bishop, *Committee Hansard*, 22 November 2019, p. 26.

that the 'driver simply doesn't have a choice ... if you don't complete the task, you haven't got a job when you get home'.⁹⁹

4.98 The Transport Workers' Union of Australia submitted that drivers falsifying logbooks demonstrated 'the ineffectiveness of existing safety frameworks and the broader failure to address the underlying pressures which lead to excessive hours of work'.¹⁰⁰

4.99 Drivers informed the committee that sleep requirements and fatigue risk factors varied between individuals (for example, preference for driving at night, fitness for duty) and by circumstance (road surface or weather conditions) and the logbook system did not recognise these differing requirements.¹⁰¹ Mr Gordon Mackinlay, president of the National Road Freighters Association, accepted the need for caps on driving hours, but considered that the law should 'give us total flexibility to do it when we can do it and when we need to do it'.¹⁰²

4.100 Mr Bishop said that with health experts recommending seven to eight hours sleep, in his opinion the rules did not allow enough time for adequate sleep:

By the time you pull up and you mark off that you've pulled up for the start of your seven hours, then wind down—get out, stretch your legs, get yourself organised and climb into the bunk and doze off to sleep, and set the alarm so you get up in the morning and you're ready to go right on your seven hours—you're lucky if you're getting six hours sleep for the night.¹⁰³

4.101 Drawing on its experience in representing drivers charged with fatigue management offences under the HVNL, Ainsley Law observed in its submission that driver fatigue laws are compromised by lack of training and understanding by drivers. Ainslie Law maintained that work diaries were issued to drivers with a truck licence and contained some 20 pages of instructions, but the drivers received no training on its use. Some were guided by the companies they work for, but many drivers that become Ainsley Law clients after they have made a mistake in their work diaries had no idea what they had done wrong.¹⁰⁴

⁹⁹ Mr John Berger, Branch Secretary, Transport Workers' Union of Australia Victoria/Tasmania Branch, *Committee Hansard*, 19 April 2021, p. 25.

¹⁰⁰ Transport Workers' Union of Australia, *Submission 126*, p. 27.

¹⁰¹ Australian Logistics Council, *Submission 63*, p. 6.

¹⁰² Mr Gordon Mackinlay, President, National Road Freighters Association, *Committee Hansard*, 22 November 2019, p. 23. See also Ms Sharon Middleton, President, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 7.

¹⁰³ Mr Andrew Bishop, *Committee Hansard*, 22 November 2019, p. 31.

¹⁰⁴ Ainslie Law, *Submission 98*, p. 2.

4.102 In its review of national transport regulatory reform, the Productivity Commission recommended:

The amendments to the Heavy Vehicle National Law should remove detailed fatigue management requirements from legislation and empower the National Heavy Vehicle Regulator to:

- publish 'acceptable means of compliance' with fatigue management regulations
- set outer limits on driving hours
- provide concessions from prescribed aspects of fatigue management regulation, where the National Heavy Vehicle Regulator is satisfied that more effective systems of fatigue management are in place.¹⁰⁵

4.103 A number of submitters supported a less prescriptive, risk-based approach.¹⁰⁶ The Australian Trucking Association submitted that fatigue management law should provide businesses with two options: (1) 'a new, performance-based framework that would enable operators to manage fatigue as a risk rather than counting time, including by adopting new technology and proven fatigue management systems' and (2) a simplified system of prescriptive fatigue rules, to support businesses whose size or risk profile did not warrant a more complex approach.¹⁰⁷ A multi-tiered risk-based approach was also supported by the NHVR and the South Australian Road Transport Association.¹⁰⁸

4.104 Mr Scott Finemore, general manager of Finemore Transport, highlighted the importance of 'managing high risks rather than just the compliance and administrative controls', noting that compliance 'is not necessarily safer, and better rewards and flexibilities are required for those of us who make a safety investment'.¹⁰⁹

4.105 Representatives of the NTC in their appearance before the committee reported that in its review into the HVNL the NTC was seeking to simplify fatigue laws but also to provide arrangements for 'more sophisticated operators who may invest in advanced safety technologies to support the productivity and efficiency of their operations'.¹¹⁰

¹⁰⁵ Productivity Commission, *National Transport Regulatory Reform*, Productivity Commission Inquiry Report No. 94, 7 April 2020; National Transport Commission, *Heavy Vehicle National Law Review*, p. 27, <https://hvnreview.ntc.gov.au/> (accessed 20 January 2021).

¹⁰⁶ See, for example, NatRoad, *Submission 47*, p. 24.

¹⁰⁷ Australian Trucking Association, *Submission 91*, pp. 8–9.

¹⁰⁸ National Heavy Vehicle Regulator, *Submission 52*, p. 3; South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 8.

¹⁰⁹ Mr Scott Finemore, General Manager, Finemore Transport, *Committee Hansard*, 22 November 2019, p. 60.

¹¹⁰ Ms Mandi Mees, Acting Executive Leader, Regulatory Reform, National Transport Commission, *Committee Hansard*, 20 April 2021, p. 4.

4.106 Mr Petrocitto, in his appearance before the committee, endorsed many of the views of stakeholders on the need to give drivers more flexibility in how they manage fatigue. He also recognised that '[what] might work for the livestock sector might not necessarily work for line haul'. Mr Petrocitto emphasised the importance of the review of the HVNL:

The current provisions in the HVNL are outdated. They don't reflect the advancements in safety technology, in fatigue detection technology, but also some of the investment that good operators are making in managing fatigue. We need a policy framework that reflects that, which then allows the regulator to be able to do its job effectively. If we can do that in a partnership approach, we know that we should be able to deliver a better safety outcome for all road users.¹¹¹

Electronic work diaries

4.107 An electronic work diary (EWD) is an alternative to a written work diary and automatically monitors and records the daily, weekly and fortnightly work and rest times of a driver to the minute. The EWD is argued to be simpler and more efficient, record more accurately and transparently, and provide real-time data to transport operators and alerts to drivers approaching a work time limit.¹¹²

4.108 Stakeholders expressed divergent views on electronic work diaries and whether they should become mandatory for use under the HVNL.

4.109 The Livestock and Rural Transporters' Association of Victoria stated that its 'smaller operators would be very concerned at the ongoing cost and administrative impact of the mandatory use of Electronic Work Diaries' and requested 'rural and livestock operators trial and evaluate any technology long before it is brought into commercial use'.¹¹³

4.110 In his submission, driver Mr Mike Williams outlined his experience with the 'real and significant advantages' brought about by using EWDs. As well as keeping track of hours and breaks and assuring 'no more spelling issues' or 'guessing the name of the parking bay', he predicted that EWDs would 'finally make DCs [distribution centres], owners and managers have to account for all the time' spent waiting hours for paperwork.¹¹⁴

¹¹¹ Mr Sal Petrocitto, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 29 April 2021, pp. 8–9.

¹¹² National Heavy Vehicle Regulator, *Electronic Work Diary – Benefits*, <https://www.nhvr.gov.au/safety-accreditation-compliance/fatigue-management/electronic-work-diary/benefits> (accessed 31 January 2021).

¹¹³ Livestock and Rural Transporters' Association of Victoria, *Submission 62*, p. 6.

¹¹⁴ Mr Mike Williams, *Submission 104*, p. 6.

4.111 While there was broad support for the reduction in paperwork, some witnesses were wary of adopting EWDs while the current prescriptive work and rest times remained.¹¹⁵ Ms Mysko of United Transport Group raised practical concerns for drivers using EWDs amid stringent enforcement:

If we give him or her an electronic work diary, next thing you know they're trying to find a parking bay to pull up if they're long distance ... There are times when you really want to pull up in a parking bay and you just can't find one. So I don't think we know enough about the enforcement behind the electronic work diary.¹¹⁶

4.112 Toll Group also addressed the issue of EWD users being 'potentially infringeable' from the moment a driver exceeds allowable hours, while a user of a written log book 'has a fifteen-minute window within which to "hide" and may, in fact, never be pulled over and checked'. Toll Group referred to debate taking place within the industry on the merits of 'allowing users of EWDs an 8 minute "tolerance" that would build equity into the system and encourage uptake'.¹¹⁷

4.113 In Mr Williams' view, insufficient rest areas on highways and truck parking in towns for mandatory stops will mean that trucks will be 'pulled up on off ramps, on the side of the road anywhere'. He also noted that you 'can't plan for accidents or road work' and unless you 'have some time available your EWD will record a breach'.¹¹⁸

4.114 Another concern about EWDs in general was that they did not record all the working time of a driver. In particular, as Mr Jerry Brown-Sarre submitted, it 'will not record any time spent outside the cabin or when the key is turned off, or what the driver was doing ie; loading unloading, repairing vehicles, washing vehicles or other work-related time'.¹¹⁹

4.115 The TWU refuted the notion that EWDs were infallible, arguing that:

... drivers are able to by-pass electronic logbook systems through the use of multiple logins in a single vehicle or the use of multiple vehicles to enable excessive hours of work. Furthermore, electronic logbooks are notorious for having satellite and technical issues, undermining their reliability ...¹²⁰

¹¹⁵ See, for example, Mr Jerry Brown-Sarre, *Submission 9*, p. 10; Ms Sharon Middleton, President, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 7.

¹¹⁶ Ms Roxanne Mysko, Chief Executive Officer, United Transport Group, *Committee Hansard*, 9 February 2021, p. 11.

¹¹⁷ Toll Group, *Submission 76*, p. 17.

¹¹⁸ Mr Mike Williams, *Submission 104*, pp. 8, 9.

¹¹⁹ Mr Jerry Brown-Sarre, *Submission 9*, p. 10.

¹²⁰ Transport Workers' Union of Australia, *Submission 126*, p. 28.

- 4.116 Larger transport companies were generally more enthusiastic about the take-up of EWDs. Linfox had over a thousand devices installed in its fleet and considered them a 'proven means of reducing accidents'.¹²¹ ALDI Stores supported the mandatory adoption of EWDs and reported to the committee that it had completed trials of EWDs. Its operations in Queensland, New South Wales, Victoria and South Australia were required to use EWDs from the end of February 2021.¹²²
- 4.117 Toll supported mandating EWDs by 2025, citing in particular the advantages to drivers in making fatigue rules clearer and providing warnings of the need for rest breaks. It concluded, if 'coupled with advice about available space at upcoming rest bays (as happens on some routes in the United States), this could be a practical and valuable fatigue management tool'.¹²³
- 4.118 Mr Gary Mahon of the Queensland Trucking Association could see advantages in the calculations made by EWDs and drivers not needing 'to understand in the vicinity of about 2,400 pages of legislation' every time they drove. He further remarked, that there is 'extraordinarily good technology available to us. ... Why is that not properly reflected in the law?'¹²⁴
- 4.119 The TWU observed that whilst EWDs are 'often worthwhile for other purposes such as addressing issues related to drivers being fined for misspelling names in manual logbooks, [they] deal with the symptom rather than the underlying problems within the industry'.¹²⁵

Fatigue management in Western Australia and the Northern Territory

- 4.120 Fatigue management in the Northern Territory and Western Australia is based on work health and safety legislation rather than prescriptive transport legislation and is focused on outcomes rather than processes.
- 4.121 In the Northern Territory, road transport operators and workers are required to manage the risk of fatigue under the *Work Health and Safety (National Uniform Legislation) Act 2011*. A road transport fatigue management code of practice was discontinued in March 2020 and new guidelines are under development.¹²⁶

¹²¹ Mr Peter Fox, Executive Chairman, Linfox, *Committee Hansard*, 19 April 2021, p. 57.

¹²² Mr Damien Scheidel, Managing Director, Corporate Logistics, ALDI Australia, *Committee Hansard*, 9 February 2021, p. 2; ALDI Stores, *Submission 18*, p. 12.

¹²³ Toll Group, *Submission 76*, pp. 7, 17, 23.

¹²⁴ Mr Gary Mahon, Chief Executive Officer, Queensland Trucking Association, *Committee Hansard*, 24 July 2020, p. 33.

¹²⁵ Transport Workers' Unions, *Submission 126*, p. 28.

¹²⁶ Northern Territory Government, *Fatigue management for transport operations*, <https://nt.gov.au/driving/industry/fatigue-management> (accessed 10 May 2021).

- 4.122 The Western Australian occupational safety and health legislation focuses on rest time rather than work. The legislation requires operators to ensure that there is a fatigue management plan that covers every commercial vehicle driver and that records are kept. Drivers in Western Australia can work a maximum of 168 working hours in any 14-day period, compared to 144 hours for HVNL jurisdiction drivers. A work record is maintained.
- 4.123 Western Australia has a code of practice on fatigue management for commercial vehicle drivers, which provides guidance to the transport industry, enforcement authorities and the courts.¹²⁷ Operating standards for solo drivers in Western Australia are summarised in table 4.3.

Table 4. Operating standard for solo drivers (Western Australia)

- At least 20 minutes of breaks from driving for every five hours of work time including a break of at least 10 consecutive minutes during or at the end of five hours.
 - No more than 168 hours of work time in any 14 day period.
 - At least 27 hours of non-work time in any 72 hour period, including at least three periods of at least seven continuous hours of non-work time.
 - No more than 17 hours between non-work periods of at least seven continuous hours.
 - If there is shiftwork on five or more consecutive days, at least 24 continuous hours of non-work time between shift changes.
 - Note: All of the items above and one of the options below must be complied with, so far as is practicable.
 - EITHER
 - At least two periods of 24 continuous hours non-work time in any 14 day period OR
 - At least four periods of 24 continuous hours non-work time in any 28 day period (provided hours of work do not exceed 144 hours in any 14 day period within the 28 days).
-

Source: WA Code of practice fatigue management for commercial vehicle drivers, 2019, p. 9.

Views on fatigue management in WA and NT

¹²⁷ Western Australia Department of Mines, Industry Regulation and Safety, *Code of practice fatigue management for commercial vehicle drivers*, 2019, https://www.commerce.wa.gov.au/sites/default/files/atoms/files/fatigue_122019.pdf (accessed 1 February 2021).

4.124 The fatigue management systems in Western Australia and the Northern Territory were strongly supported by drivers who had operated under them and some remarked on the difficulty in adjusting to the HVNL on their journeys to the eastern states. Truck driver advocate Mr Robert Bell emphasised the simplicity of the WA scheme:

The truck drivers in the eastern states have an extremely onerous and manifestly excessive enforcement regime. I lived in Western Australia for some time and drove road trains out of Perth up to the Kimberley and the Pilbara and into the Northern Territory. You basically drive till you're ready to go to bed at a reasonable time. You go to bed for the night, you get up the next morning and then you drive again.¹²⁸

4.125 Others drivers lauded the ability to break up the driving day:

In WA every five hours we get a 20-minute break. It can be a 10-minute consecutive time, and then you can break up your next 10 minutes into one-minute intervals if you want.¹²⁹

4.126 In the view of Mr Castanelli, for drivers from the eastern states entering Western Australia, the main point of difference was 'you need to be careful about working six hours straight'. Aside from that, he maintained, drivers could continue running their log books as normal and be compliant.¹³⁰

4.127 For some submitters, the success of the fatigue management schemes in Western Australia and the Northern Territory was a major sticking point for the adoption of the HVNL in those states. The Livestock and Rural Transport Association of Western Australia opposed Western Australia joining the HVNL, arguing:

The operating standards for fatigue in WA offer flexibility in the hours of work to reflect the geography of the state, the heavy vehicle operating environment, human physiology and the distances driven. Under the NHVR, the loss of flexibility in driving hours and a reduction in the 'safety culture' approach would lead to increased fatigue risk and negative road safety outcomes.¹³¹

4.128 The Australian Logistics Council advocated for a single nation-wide HVNL which Western Australia and the Northern Territory should join but recommended that the HVNL should adopt the WA model for fatigue management. In the ALC's view, the WA-style work health and safety legislative framework would mean that:

¹²⁸ Mr Robert Bell, *Committee Hansard*, 9 February 2021, p. 7.

¹²⁹ Mr Kelvin Cootes, *Committee Hansard*, 26 November 2020, p. 7.

¹³⁰ Mr Glyn Castanelli, Secretary, National Road Freighters Association, *Committee Hansard*, 19 April 2021, p. 52.

¹³¹ Livestock and Rural Transport Association of Western Australia, *Submission 61*, p. 5.

1. The general duties contained in the Law to take all reasonably practicable steps to eliminate (fatigue) risk will need to be complied with;
2. A subordinate legislative instrument will merely prescribe a maximum number of hours a person can drive per day and per week; and
3. The Law will require heavy vehicle operators to develop a fatigue management plan that will form part of a mandatory safety management system (SMS), so as to comply with a National Operating Standard ...¹³²

4.129 Mr Petrocitto observed that 'the outer limits in WA and the outer limits on the eastern seaboard under HVNL, under AFM, are not that much different'. In his view, if participants were prepared to 'drop the boundary discussion' and look to 'the best possible outcome', then 'we might be able to land a driving regime that satisfies everyone'.¹³³

Heavy vehicle accreditation

4.130 Accreditation schemes offer heavy vehicle industry participants regulatory concessions in return for demonstrating that they have implemented management systems that achieve the objectives of defined industry standards. Accreditation schemes support traditional safety compliance programs, such as prescriptive regulation and penalties and sanctions through vehicle inspections and on-road enforcement.

4.131 In Australia, heavy vehicle accreditation schemes are voluntary, provided by government and industry, and were estimated in 2018 to have been taken up by some 20 per cent of industry participants.¹³⁴ An analysis of heavy vehicle accreditation schemes in Australia undertaken for the NHVR found that in 2017 there were 6607 accredited operators under the National Heavy Vehicle Accreditation Scheme and 212 members of the TruckSafe scheme.¹³⁵

4.132 The Productivity Commission, in its 2020 inquiry report *National Transport Regulatory Reform*, concluded that while heavy vehicle accreditation gave operators flexibility on some aspects of their business, due to outdated data the effects on safety are 'unclear'. It also raised the lack of recognition between the

¹³² Australian Logistics Council, *Submission 63*, p. 7.

¹³³ Mr Sal Petrocitto, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 29 April 2021, p. 9.

¹³⁴ Fellows Medlock and Associates, *Analysis of Heavy Vehicle Safety Accreditation Schemes in Australia*, Report undertaken for the National Heavy Vehicle Regulator, February 2018, pp. 2, 9.

¹³⁵ Fellows Medlock and Associates, *Analysis of Heavy Vehicle Safety Accreditation Schemes in Australia*, Report undertaken for the National Heavy Vehicle Regulator, February 2018, pp. 24, 25; Australian Logistics Council, *A national operating standard for heavy vehicle operators*, January 2021, additional information received 27 April 2021, p. 4.

multiple schemes, meaning that for operators 'who participate in multiple schemes this imposes an unnecessary compliance cost'.¹³⁶

National Heavy Vehicle Accreditation Scheme

4.133 The National Heavy Vehicle Accreditation Scheme (NHVAS) is administered by the NHVR. Heavy vehicle operators can apply for accreditation in four modules—mass management, maintenance management, basic fatigue management and advanced fatigue management. Accreditation recognises that a heavy vehicle operator has robust safety and management systems in place. It also affords the operator concessions, exemptions and increased flexibility for the modules in which it holds accreditation, such as by allowing operators to carry larger loads or bypass some vehicle inspections.¹³⁷

4.134 Accreditation is usually granted for two years and audits of an operator's compliance with module standards are carried out by approved independent auditors. According to a report on the NHVAS undertaken by the NHVR in 2018, auditors 'must be recognised as a fit and proper person and hold certification in heavy vehicle auditing [and]...demonstrate experience in the heavy vehicle industry'. To be a maintenance and mass management auditor they must have 'received training provided or recognised by the NHVR or have arrangements with a suitably qualified person to provide technical input into an audit'. Auditors are not permitted to undertake more than two consecutive audits of a module for an operator.¹³⁸

Other accreditation schemes

4.135 The Western Australian Heavy Vehicle Accreditation Scheme (WAHVA) is administered by Main Roads Western Australia. WAHVA is compulsory for operators wishing to use restricted access vehicles in Western Australia and covers around 10 per cent of the total heavy vehicle fleet in Western Australia.¹³⁹ Its modules cover fatigue, maintenance and dimension and loading. According to accreditation auditor Mr Glyn Castanelli, 'audits are

¹³⁶ Productivity Commission, *National Transport Regulatory Reform*, Productivity Commission Inquiry Report No. 94, 7 April 2020, pp. 24, 301.

¹³⁷ National Heavy Vehicle Regulator, *National Heavy Vehicle Accreditation Scheme*, <https://www.nhvr.gov.au/safety-accreditation-compliance/national-heavy-vehicle-accreditation-scheme> (accessed 3 February 2021); Productivity Commission, *National Transport Regulatory Reform*, Productivity Commission Inquiry Report No. 94, 7 April 2020, p. 57.

¹³⁸ Fellows Medlock and Associates, *Analysis of Heavy Vehicle Safety Accreditation Schemes in Australia*, Report undertaken for the National Heavy Vehicle Regulator, February 2018, p. 15.

¹³⁹ Fellows Medlock and Associates, *Analysis of Heavy Vehicle Safety Accreditation Schemes in Australia*, Report undertaken for the National Heavy Vehicle Regulator, February 2018, p. 19.

conducted every 12 months and Main Roads WA has a requirement to randomly audit five per cent of current operators each year'.¹⁴⁰

Accreditation scheme effectiveness

4.136 A number of industry stakeholders expressed frustration at the number of auditing and accreditation bodies that they have to deal with and the lack of recognition between those schemes. Mr Rodney McIntosh, human resources and compliance manager from O'Brien Transport Services, explained:

You've got companies now that are coming to us, and they want all your information that you've got, like all your registrations, all your driver details, copies of your licenses and all your insurance. Most of that we already provided to them, but they've just gone to the next level. The other side of that is that we already get audited for that through NHVR ... but that's not enough for some of the transport companies that we might work for or some of the businesses that we do work for.¹⁴¹

4.137 The Livestock and Rural Transporters' Association of Victoria noted that its members deal with dozens of sites such as saleyards and processors which insist on 'inductions, accreditation and training' to cover their legal responsibilities under CoR.¹⁴²

4.138 The result of the increased administration, according to Mr Dean O'Brien from O'Brien Transport Services, was:

We're spending all our time auditing instead of being out and helping [with compliance] at the nuts and bolts. We're not out training people; we're going through audits. We just need one unified body that says, 'You comply to legislation. Here it is.' But it's not going to happen. They're all businesses. It's a money making machine.¹⁴³

4.139 The committee heard that often the compliance audits were conducted by the same individual for different bodies and that the company had to pay for the audit on each occasion.¹⁴⁴

4.140 Some industry participants favoured a single, mandatory national accreditation framework.¹⁴⁵

¹⁴⁰ Mr Glyn Castanelli, Secretary, National Road Freighters Association, *Committee Hansard*, 19 April 2021, p. 50.

¹⁴¹ Mr Rodney McIntosh, Human Resources and Compliance Manager, *Committee Hansard*, 22 November 2019, p. 38.

¹⁴² Livestock and Rural Transporters' Association of Victoria, *Submission 62*, p. 4.

¹⁴³ Mr Dean O'Brien, Commercial Manager, O'Brien Transport Services, *Committee Hansard*, 22 November 2019, p. 39.

¹⁴⁴ Mr Rodney McIntosh, Human Resources and Compliance Manager, *Committee Hansard*, 22 November 2019, p. 39.

4.141 The Australian Logistics Council (ALC) argued that 'the low uptake of the current accreditation schemes suggests the market place has decided the schemes aren't fit for purpose'.¹⁴⁶ Instead the ALC proposed that the nation's heavy vehicle fleet should be operated only by operators that meet an agreed set of national operating standards which should be incorporated into the HVNL.¹⁴⁷ ALC chief executive officer Mr Kirk Coningham stated that meeting the standard took more effort than cost, but that a uniform standard would identify operators doing the right thing. Regarding the standards, Mr Coningham said that:

... a lot of these are not cost measures, and a lot of these will be very simple for reputable operators in the industry already. They'll be more difficult for someone coming in who's trying to pretend that they're a trucking company. I think that just the standard itself will actually be—and should be—welcomed by the operators in the industry right now, because the ease with which they can be compliant is almost there already. Whereas ... for a new person to come into the industry ... they're going to have to be held to a standard that everyone else is already held to.¹⁴⁸

4.142 According to the ALC, the adoption of safety management systems through the provision of a common set of standards would reduce duplication and 'encourage the operators of heavy vehicle safety schemes to mutually recognise each other's audits and so reduce the number of audits that operators have to undergo and pay for'.¹⁴⁹

4.143 Toll Group also supported 'minimal checks like whether [operators] have the financial capacity to maintain a truck' and the introduction of an 'operator licensing system'.¹⁵⁰ Mr Mark Williams suggested that a licensing system:

... would get rid of the price-cutting blokes and people entering the industry who don't know their costs, who don't care about their costs, who are paying under award and doing all the wrong things. If they had a licence and continued to do the wrong things, there would be trigger audits on them generated by the authorities—through the NHVR perhaps

¹⁴⁵ See, for example, Australian Logistics Council, *Submission 63*, pp. 7–10; Mr Dean O'Brien, Commercial Manager, O'Brien Transport Services, *Committee Hansard*, 22 November 2019, p. 39; Mr Jerry Brown-Sarre, *Submission 9*, p. 4.

¹⁴⁶ Australian Logistics Council, *A national operating standard for heavy vehicle operators*, January 2021, additional information received 27 April 2021, p. 5.

¹⁴⁷ Australian Logistics Council, *Submission 63*, pp. 8, 10.

¹⁴⁸ Mr Kirk Coningham, OAM, CEO, Australian Logistics Council, *Committee Hansard*, 28 April 2021, p. 51.

¹⁴⁹ Australian Logistics Council, *A national operating standard for heavy vehicle operators*, January 2021, additional information received 27 April 2021, p. 8.

¹⁵⁰ Toll Group, *Submission 76*, p. 11.

or some other body that was responsible for that. They'd have to show cause if they continued with that practice, and it would be three strikes and you're out.¹⁵¹

- 4.144 ALRTA argued against mandatory accreditation on the basis that it would impose a significant regulatory and cost burden on businesses and cost hundreds of millions of dollars annually to administer. It suggested instead that regulators be empowered 'to prohibit certain individuals or entities from operating or controlling any type of road freight business on a case-by-case basis'.¹⁵²
- 4.145 Mr Petrocitto maintained that the NHVAS administrative fee and the costings for its modules were modest and that it was run for its safety outcomes, not to make a profit. The two-yearly auditing fees were set by the auditors, not the NHVR.¹⁵³
- 4.146 The Australian Trucking Association, which delivers TruckSafe, maintained that its safety accreditation scheme audited businesses to a level above that required by the law. ATA contended that the NHVAS does not cover fatigue management under standard hours, speed management, speed limiter tampering, mass management for vehicles operating at general mass limits, management of vehicle dimensions, load restraint nor compliance with safety duties in the HVNL Chapter 1A.¹⁵⁴
- 4.147 ATA submitted that there was unnecessary duplication with the NHVAS as 90 per cent of its businesses had both certifications. It proposed that the NHVR should cease to run a certification scheme and instead confine itself to regulating providers.¹⁵⁵
- 4.148 An alternative proposal for an industry-wide scheme was the five star trucking concept provided by the Transport and Logistics Centre.¹⁵⁶ Dr Daryll Hull, Managing Director of TALC, informed the committee that this was 'a ratings system for transport operators, in terms of safe work and competitive business practice, setting national industry standards'.¹⁵⁷ The proposed system would

¹⁵¹ Mr Mark Williams, *Committee Hansard*, 20 April 2021, p. 25.

¹⁵² Australian Livestock and Rural Transporters' Association, *Submission 12*, p. 20.

¹⁵³ Mr Sal Petrocitto, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 29 April 2021, p. 10. See also National Heavy Vehicle Regulator, answers to questions on notice, 28 April 2021 (received 12 May 2021).

¹⁵⁴ Australian Trucking Association, *Submission 91*, p. 11.

¹⁵⁵ Australian Trucking Association, *Submission 91*, pp. 11–12.

¹⁵⁶ Transport and Logistics Centre, *Submission 89*, pp. 9–14; Transport and Logistics Centre, *Five star trucking safety concept: Development of model options*, Final report, 26 July 2012, Additional information received from Dr Daryll Hull on 25 February 2021.

¹⁵⁷ Dr Daryll Hull, Managing Director, Transport and Logistics Centre, *Committee Hansard*, 8 February 2021, p. 36.

rank operators from basic compliance to best practice for factors including speed, fatigue, driver health and vehicle and conditions management. Operators with a five star rating would receive concessions such as fewer roadside heavy vehicle inspections, extended working time hours and infrastructure access.¹⁵⁸

4.149 Mr Petrocetto responded that the TruckSafe scheme had some elements 'that would be worthy of consideration in a national framework', but that it did not 'make sense to duplicate any of the national accreditation framework things that are already within the law'. Instead he advocated a 'single administrative scheme through a regulatory agency which provides certainty and clarity to the whole supply chain [rather] than having multiple schemes that operators would need to comply with to get jobs or win contracts'.¹⁵⁹

4.150 Mr Petrocetto also indicated that the NHVR was also working with the WAHVA to see if there could be 'some mutual recognition of the two government schemes'.¹⁶⁰

Centralisation of accreditation documentation

4.151 Several stakeholders proposed the establishment of a resource, or the augmentation of an existing NHVR portal, which would list the accreditation scheme or schemes under which transport companies operated.

4.152 Mr Gordon Mackinlay suggested that the need to forward documentation to customers at short notice was a particular issue for small transport companies as they found it difficult to supply paperwork when on the road.¹⁶¹

4.153 According to Mr Rodney McIntosh of O'Brien Transport Services, centralised documentation would mean:

If there were one portal, that company could go into that portal and put in 'O'Brien Transport'. 'Yes, they're accredited under this, this, this and that, and they've done all that. Okay, no worries. All we need from them is their insurance documentation, and away we go'.¹⁶²

¹⁵⁸ Transport and Logistics Centre, *Five star trucking safety concept: Development of model options*, Final report, 26 July 2012, Additional information received from Dr Daryll Hull on 25 February 2021, p. 38.

¹⁵⁹ Mr Sal Petrocetto, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 29 April 2021, p. 10.

¹⁶⁰ Mr Sal Petrocetto, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 29 April 2021, p. 11.

¹⁶¹ Mr Gordon Mackinlay, President, National Road Freighters Association, *Committee Hansard*, 22 November 2019, p. 14.

¹⁶² Mr Rodney McIntosh, Human Resources and Compliance Manager, O'Brien Transport Services, *Committee Hansard*, 22 November 2019, pp. 39–40.

4.154 Some stakeholders suggested that a broader range of data be available to the industry including maintenance and compliance records of companies¹⁶³, as well as their track record in paying tax, super and wages, fatigue and weight management and work health and safety.¹⁶⁴

Training of auditors

4.155 In its submission, ALC responded to criticisms within industry of the quality of audits and auditors.¹⁶⁵ ALC argued that the current level of training of auditors at vocational education and training certificate IV level within the Australian Qualifications Framework was too low. ALC recommended that the NHVR, in partnership with industry, develop a safety auditor training course falling within the national Transport and Logistics Training Package at Diploma (AQF certificate V) level.¹⁶⁶

4.156 Mr Petrocitto agreed that more work could be done to improve the quality of auditing and that this would form part of the consideration, under the HVNL review, of a national accreditation framework.¹⁶⁷

¹⁶³ Mr Michael Williams, *Committee Hansard*, 9 February 2021, p. 16;

¹⁶⁴ Mr Trevor Warner, *Committee Hansard*, 24 July 2020, p. 16.

¹⁶⁵ Submissions criticising auditors were received from Mr Allan Price, *Submission 6*, p. 1 and Name Withheld, *Submission 93*, p. 14.

¹⁶⁶ Australian Logistics Council, *Submission 63*, p. 11.

¹⁶⁷ Mr Sal Petrocitto, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 29 April 2021, p. 10.

Chapter 5

Education and training

- 5.1 Formal education and training in the road freight industry consists of heavy vehicle driving and driver operations training delivered by registered training organisations (RTOs), through the vocational education and training (VET) sector or by driving instructors and assessment officers authorised by state road authorities.
- 5.2 The industry has a high regard for practical, high-quality on-the-job training which would give new drivers the time and experience to allow skills to develop. However, the committee received evidence that the industry lacks confidence in the skills of new drivers and that many transport operators struggle to deliver the shortfall in skills training. The Transport Workers' Union (TWU) submitted that '[t]he industry continues to suffer from low levels of education and training which are undermining safety and productivity'.¹
- 5.3 The committee was told that despite the work over many years to develop national competency requirements for heavy vehicle drivers, new drivers are still being 'churned' out of driving schools 'in as little as half a day'.² According to the Australian Driver Trainers Association (ADTA), career development in the industry amounted to 'licence tenure', where the only requirement is to hold a licence for a prescribed period of time without a requirement that drivers develop skills, experience or knowledge to operate vehicles safely and competently.³
- 5.4 Furthermore, driver shortages and poor progress in securing a younger and more diverse driver base was a threat to the sustainability of the industry.
- 5.5 This chapter considers reviews of and progress on the national framework for driver training, the views of stakeholders on attracting new entrants to the industry and the development of career pathways to support the growth of the industry into the future. The chapter also considers the TWU's call for an industry-wide approach to training, with an emphasis on safety induction training through a mechanism similar to the Transport Education Audit Compliance Health Organisation's (TEACHO) 'BlueCard' approach.

Policy and qualification development organisations

- 5.6 The bodies responsible for policy and the development of national training qualifications in the transport and logistics industry are described below:

¹ Transport Workers' Unions, *Submission 126*, p. 46.

² Australian Driver Trainers Association, *Submission 73*, p. 5.

³ Australian Driver Trainers Association, *Submission 73*, p. 6.

- **Skills National Cabinet Reform Committee** that replaced the former Council of Australian Governments (COAG) Industry and Skills Council.
- **Australian Industry and Skills Committee (AISC):** Established by the COAG Industry and Skills Council in 2015 to provide advice to COAG on the implementation of national VET policies. Its role is to recommend training packages for implementation in the VET system and ensure that industry perspectives inform national training on transport and logistics.⁴
- **Transport and Logistics Industry Reference Committee (TLIRC):** Acts as a link between the transport and logistics industry and the AISC. Comprised of industry representatives and experts, the TLIRC identifies the skills required by the industry and ensures that the Transport and Logistics Training Package is appropriate to the needs of the industry.⁵
- **Australian Industry Standards (AIS):** A not-for-profit skills service organisation that supports the TLIRC by providing research and analysis and assisting in the development of qualification standards.
- **Transport Education Audit Compliance Health Organisation (TEACHO):** is a not for profit company established by the TWU in partnership with employers and industry experts. TEACHO aims to improve research, training and compliance support to transport workers in Australia. A strategic priority of TEACHO is its Bluecard Skills Training Passport System (Bluecard).⁶

National Heavy Vehicle Driver Competency Framework

5.7 The National Heavy Vehicle Driver Competency Framework (the framework) establishes the minimum competency standards for heavy vehicle drivers and trainers. Developed by the Standing Committee on Transport of the Australian Transport Council and endorsed in 2011, the framework has been implemented for heavy vehicle drivers' licences in New South Wales, Victoria, Tasmania, the Northern Territory and the Australian Capital Territory.⁷ The

⁴ Australian Industry and Skills Committee, *About the AISC*, <https://www.aisc.net.au/aisc/about-aisc> (accessed 15 March 2021).

⁵ Australian Industry Standards, *Submission 37*, p. 2; Australian Industry Standards, *Transport and Logistics Industry Reference Committee (IRC)*, <http://australianindustrystandards.org.au/industries/transport-and-logistics-irc/> (accessed 15 March 2021).

⁶ Discussed further in this chapter.

Transport Education Audit Compliance Health Organisation, *About*, available at: <https://www.teacho.com.au/index.php/about> (accessed 6 July 2021).

⁷ Austroads, *Review of the national framework for heavy vehicle driver competence—phase 2*, September 2019; Northern Territory Government, *Get your heavy vehicle licence*, last updated 16 March 2015, <https://nt.gov.au/driving/driverlicence/getting-an-nt-licence/get-your-heavy-vehicle-licence> (accessed 15 March 2021); ACT Government, *Heavy vehicle driver licencing*, <https://www.accesscanberra.act.gov.au/s/article/heavy-vehicle-driver-licensing-tab-related-resources> (accessed 12 May 2021).

framework was 'designed to set a standard where there would be appropriate progression between those within the heavy-vehicle hierarchy so that people would be trained and graduate from light-rigid to heavy-rigid and through to multi-combinations at various levels'.⁸

- 5.8 Queensland has partially implemented the framework with driver training for the Multi Combination (MC) class of licence being offered by RTOs:

Currently in QLD the regulator (TMR) conduct their own driver testing up to Class HC with MC licenses offered by RTO's that hold a deed with TMR. The TMR driving test is between 60 and 90 minutes in duration with a testing officer who may or may not have any truck driving experience. The only requirement is that they hold a license for 1 year.⁹

- 5.9 The Australian Driver Training Association (ADTA)—the peak body representing some 1200 driver educators in New South Wales, Queensland and the Northern Territory—submitted in late 2019 that the national framework 'has been agreed by all state regulators as the way forward'. However, it noted that the approach to licensing continued to vary within and among jurisdictions due in large part to geographical constraints in having to travel to undertake courses.¹⁰
- 5.10 The National Heavy Vehicle Regulator (NHVR) has indicated that it supports a single national heavy vehicle driver licensing framework.¹¹

Senate Rural and Regional Affairs and Transport References Committee inquiry into aspects of road safety in Australia

- 5.11 In October 2017, the Senate Rural and Regional Affairs and Transport References Committee reported on heavy vehicle training as part of its inquiry into aspects of road safety in Australia. It found that there was inconsistency among state and territory jurisdictions in their application of the framework and in the qualifications and practical experience requirements for instructors and assessors. The standard required to pass heavy vehicle driving assessments was also found to be low and insufficiently focused on safety.
- 5.12 The committee recommended that the COAG Transport and Infrastructure Council work to ensure all jurisdictions adopt the framework and that the Australian Skills Quality Authority (ASQA) take a more active role in

⁸ Mr Geoff Allan, Chief Executive, Austroads, *Committee Hansard*, 29 April 2021, p. 49.

⁹ Australian Driver Training Association, *Submission 73*, p. 3. See also Queensland Department of Transport and Main Roads, *Multi-combination vehicle licence (class MC)*, <https://www.tmr.qld.gov.au/Licensing/Getting-a-licence/Getting-a-heavy-vehicle-licence/Multi-combination-vehicle-licence.aspx> (accessed 15 March 2021).

¹⁰ Australian Driver Training Association, *Submission 73*, p. 3.

¹¹ National Heavy Vehicle Regulator, *Submission 37*, p. 5.

monitoring the delivery of heavy vehicle training by RTO and other providers.¹²

Austroads review of the National Heavy Vehicle Driver Competency Framework

- 5.13 In 2018, Austroads, a collective of the Australian and New Zealand government transport agencies, released the first part of a three-phase review of the framework. The review found that heavy vehicle licensing varied between jurisdictions and the standard of training and assessment was 'often inadequate with offerings of less than a day to obtain a heavy vehicle licence'. The review recommended that licence progression based on time be replaced with skill development and the inclusion of minimum supervised driving hours.¹³
- 5.14 Regarding the governance of training programs, the review found that VET sector oversight was 'insufficient to ensure the quality and integrity of outsourced licensing services' and recommended that transport regulators take a more active role in 'setting and monitoring standards'. However, it also recommended that the training continue to be delivered through VET providers.¹⁴
- 5.15 In September 2019, Austroads announced the completion of phase 2 of its review which had identified a number of further measures. These included strengthening the licence to drive units of competency particularly in the areas of safe vehicle operating practice, hazard awareness, vehicle systems and loading; developing standardised training and assessment materials; and considering minimum supervised hours of experience as part of heavy vehicle licensing.¹⁵
- 5.16 Phase 3 of the review, which commenced in May 2020 and will run until August 2022, aims to develop 'an exemplar licensing framework for national implementation which will establish, for each class of heavy vehicle licence, the standard of safe driving and vehicle management skills'.¹⁶ These will be

¹² Senate Rural and Regional Affairs and Transport References Committee, *Aspects of road safety in Australia*, October 2017, pp. 41 and 58.

¹³ Austroads, [Review of the National Heavy Vehicle Competency Framework](#), March 2018, pp. i and 3.

¹⁴ Austroads, [Review of the National Heavy Vehicle Competency Framework](#), March 2018, p. i.

¹⁵ Austroads, *Review of the National Framework for Heavy Vehicle Driver Competence: Phase 2*, 9 September 2019, <https://austroads.com.au/latest-news/review-of-the-national-framework-for-heavy-vehicle-driver-competency-phase-2> (accessed 15 March 2021).

¹⁶ Austroads, *Review of the National Heavy Vehicle Driver Competency Framework: Stage 3*, <https://austroads.com.au/latest-news/review-of-the-national-framework-for-heavy-vehicle-driver-competency-phase-2> (accessed 15 March 2021).

submitted to the Infrastructure and Transport Ministers' Meetings for endorsement in late 2022.¹⁷

Heavy vehicle licence training

- 5.17 Heavy vehicle licence classes for rigid vehicles are Light Rigid (LR), Medium Rigid (MR) and Heavy Rigid (HR). The licence classes for articulated or combination vehicles are Heavy Combination (HC) and Multi Combination (MC).
- 5.18 The Austroads review of the framework noted that licence holders are generally expected to progress from lower to higher vehicle classes, according to nationally agreed minimum time periods within which to progress, although exceptions can be granted in some jurisdictions.¹⁸
- 5.19 To obtain a heavy vehicle licence, candidates are assessed on their knowledge and competency to drive according to criteria under the framework (see figure 5.1 below).

Figure 5.1 Criteria for assessing competency under the National Heavy Vehicle Competency Framework

Criteria	
Pre-Drive <ul style="list-style-type: none"> • Pre-operational check • Cabin drill 	Low Risk Driving Behaviours <ul style="list-style-type: none"> • Create and maintain crash avoidance space • Protect crash avoidance space
Vehicle Operation and Control <ul style="list-style-type: none"> • Start off, move off, shut down and secure • Manages steering • Manages gears • Manages brakes • Manages accelerator 	Additional Risk Management <ul style="list-style-type: none"> • Reverse • Hill stop/start • Load securing • Coupling/uncoupling • Bus stop procedure
Compliance <ul style="list-style-type: none"> • Road rules and directions 	

Source: Austroads, *Review of the National Heavy Vehicle Competency Framework*, March 2018, p. 24.

- 5.20 The Austroads review noted that there are no recommended minimum timeframes in licence to drive units 'below which a person cannot reasonably have obtained sufficient proficiency'. It also reported the results of a survey of driver training providers which indicated that the median duration of training for vehicle licencing courses was '1–4 hours for the off-truck component in both rigid and articulated vehicle classes and 9–16 hours for the behind the wheel component'. However, the review also noted that the claimed hours may be an overstatement and that a 'review of training provider websites

¹⁷ Mr Geoff Allan, Chief Executive, Austroads, *Committee Hansard*, 29 April 2021, p. 50.

¹⁸ Austroads, [Review of the National Heavy Vehicle Competency Framework](#), March 2018, p. 23.

backs up the view that there are a number of providers offering courses at considerably less than the indicated 10–20 hours'.¹⁹

- 5.21 The review concluded that 'the market based approach which does not mandate minimum training and practical experience durations is resulting in a "race to the bottom" in the current environment'.²⁰

Driver operations qualifications

- 5.22 In addition to the licence training unit²¹, there are nationally recognised VET Certificates II, III and IV in Driver Operations which provide a number of units in preparation for roles driving various vehicle classes from courier or taxi driver through to freight driver and articulated fuel tanker drivers.²²
- 5.23 NatRoad argued that the delivery of these units was inconsistent due to the program design being driven by the particular RTO. It also submitted that when pricing policies, insurers did not distinguish between the qualifications of drivers. So, from the point of view of operators, there was no 'transferable benefit or increased business confidence in employing someone who holds these qualifications'.²³
- 5.24 Take-up of VET qualifications is low and continues to fall. In its 2020 *Transport and Logistics Forecast*, AIS reported that of the transport and logistics workforce of truck, taxi and bus drivers, about 'a third of this group (33.1%) hold a VET qualification, but a clear majority (57.1%) hold no qualification at all'.²⁴
- 5.25 AIS analysis showed that while the number of truck drivers grew 14 per cent between 2015 and 2018, the number of enrolments in truck driving qualifications fell 40 per cent (see figure 5.2). The Queensland statistics were especially dire:

Certificate III in Driving Operations, which accounted for 81% of all Road Transport qualification enrolments in 2018, has seen a precipitous decline in enrolments in Queensland in particular. The decline represents 82% of the national decline for Certificate III in Driving Operations in the last four years which is almost entirely due to an 86.6% decline in Government funded enrolments in the State, or a difference of 9,514 students.²⁵

- 5.26 AIS noted that the decline in enrolments correlated with a decline in government funding for enrolments for road transport qualifications in

¹⁹ Austroads, [Review of the National Heavy Vehicle Competency Framework](#), March 2018, p. 37.

²⁰ Austroads, [Review of the National Heavy Vehicle Competency Framework](#), March 2018, p. 44.

²¹ Certificate IV in Transport and Logistics (Road Transport—Heavy Vehicle Driving).

²² Austroads, [Review of the National Heavy Vehicle Competency Framework](#), March 2018, p. 32.

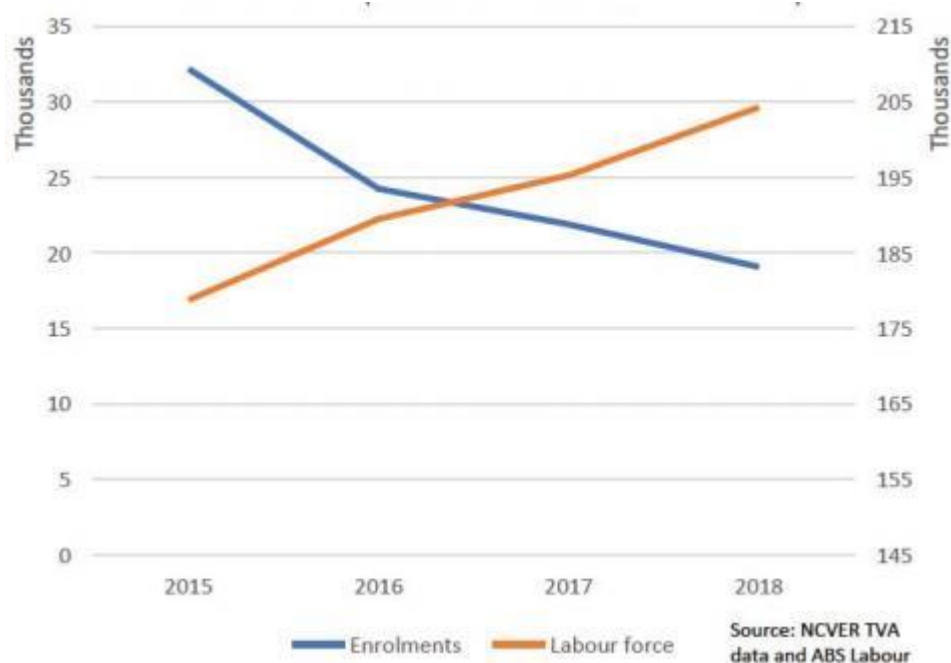
²³ NatRoad, *Submission 47*, p. 12.

²⁴ Australian Industry Standards, *Transport and Logistics Skills Forecast*, 2020, p. 5.

²⁵ Australian Industry Standards, *Submission 37*, p. 8.

2015–18 of around 70 per cent.²⁶ It further observed that while the Australian Government contributed a 'significant amount to vocational education training, how that money is allocated in [each] jurisdiction is ultimately almost all worked out by state and territory governments'.²⁷

Figure 5.2 Truck drivers (enrolments vs labour force), 2015–18



Source: Australian Industry Standards, Submission 37, p. 8.

5.27 Mr Peter Anderson, Chief Executive Officer of the Victorian Transport Association, observed that there was a disjunct between the agencies that offered licence training and the training that is offered through AIS and the VET sector. The two sectors, he noted, had different ideals and perspectives and 'don't want to connect'.²⁸

Views on heavy vehicle training

Governance of training programs

5.28 For most states and territories, training providers in the VET sector are regulated nationally by the Australian Skills Quality Authority. However, VET in Victoria is regulated by the Victorian Registration and Qualifications Authority and in Western Australia by the Western Australian Training Accreditation Council.

²⁶ Australian Industry Standards, Submission 37, p. 8.

²⁷ Mr Paul Walsh, Chief Executive Officer, Australian Industry Standards, Committee Hansard, 19 April 2021, p. 30.

²⁸ Mr Peter Anderson, Chief Executive Officer, Victorian Transport Association, Committee Hansard, 19 April 2021, p. 14.

5.29 The ADTA raised concerns about the governance of training programs. In its submission, the ADTA referred to the expectation of state regulators that ASQA would monitor the VET sector. It stated that by working outside the recordkeeping requirements of the VET system, 'questionable RTO's continue to operate without any external auditing or guidance':

Whilst only RTO's can get delivery agreements, there is no requirement that a unit of competency must be issued. This means that ASQA has no Authority whatsoever in monitoring or auditing license outcomes. Essentially license assessments sit in a bizarre no mans land.²⁹

5.30 ADTA argued that the heavy vehicle training scheme be either 'fully immersed into, or fully removed from, the VET space'.³⁰ It further contended that Transport for NSW had 'set such low benchmarks in terms of the training we deliver' that it should vacate the field and Austroads or another organisation be allowed to run training.³¹

Training of trainers

5.31 There are two VET qualifications for heavy vehicle driving instructors. The TAE40116 Certificate IV in Training and Assessment is the required qualification for all trainers and assessors delivering nationally recognised training, regardless of industry.

5.32 The RTO standards do not require heavy vehicle driving instructors to hold the driver instructor qualification, TLI41316 Certificate IV in Transport Logistics (Road Transport—Heavy Vehicle Driving Instruction). However, the 'trainer/assessor must have vocational competencies at least to the level of the course being delivered'.³²

5.33 ADTA noted that while NSW had brought its training into the VET sector under RTOs in 2013, there were still questions over the adequacy of qualifications of trainers:

It is worrying that in NSW driving tests are also conducted by Service NSW using staff that simply must "hold" that class of license. We have seen numerous examples of staff being upgraded to a class HR license and two weeks later testing in that class having achieved absolutely no on-road truck driving experience other than the process of passing their own test.³³

5.34 Representatives of TRANZnet, an organisation representing trainers and assessors, raised the 'chronic shortage' of properly qualified trainers and

²⁹ Australian Driver Trainers Association, *Submission 73*, p. 4.

³⁰ Australian Driver Trainers Association, *Submission 73*, p. 7.

³¹ Mr Michael Humphries, Director, Australian Driver Trainers Association, *Committee Hansard*, 8 February 2021, pp. 29 and 30.

³² Austroads, [Review of the National Heavy Vehicle Competency Framework](#), March 2018, p. 40.

³³ Australian Driver Trainers Association, *Submission 73*, pp. 3–4.

assessors in the Northern Territory. This had resulted in a decision to close the driver trainer organisation, Northern Australia Training and Assessment. TRANZnet Vice-President, Ms Annette Bould, told the committee that obtaining the Certificate IV qualifications was time consuming and expensive and the pay rates for trainers were not competitive with those earned by experienced drivers. There was also no truly national system of transferable qualifications, making recruitment from interstate difficult. In TRANZnet's view, NT Motor Vehicle Registry accredited trainers lacked industry experience and held 'piecemeal' qualifications.³⁴

Testing and training standards

- 5.35 The Victorian Transport Association spoke for many industry participants when it expressed frustration at 'the inability of the statutory regimes to understand what is required by an individual to become a professional driver in our industry'.³⁵
- 5.36 A constant refrain heard by the committee from industry participants was that new entrants are not being adequately tested or trained.³⁶
- 5.37 Witnesses and submitters time and again maintained that skill levels of licence holders were insufficient from both a safety³⁷ and job ready perspective,³⁸ with qualified drivers unable to 'back the trailers against the dock'³⁹ or adequately drive the class of vehicle for which they are licensed.⁴⁰
- 5.38 Ms Michelle Harwood, Executive Director of the Tasmanian Transport Association, said that the framework did not address the 'wraparound skill set'

³⁴ Ms Annette Bould, Vice-President, TRANZnet, *Committee Hansard*, 8 February 2021, pp. 50–51.

³⁵ Victorian Transport Association, *Submission 94*, p. 7.

³⁶ See, for example, Mr Rod Hannifey, *Committee Hansard*, 22 November 2019, p. 8; Roe's Holdings, *Submission 44*, p. 9; Mr Gary Deane-Spread, *Committee Hansard*, 26 November 2020, p. 7; South West Express, *Submission 4*, p. 1; Mr Jerry Brown-Sarre, *Submission 9*, p. 3; Mr David Cullen, Transport Workers' Union, Queensland Branch, *Committee Hansard*, 24 July 2020, p. 70; Ms Heather Jones, Chief Executive Officer, Pilbara Heavy Haulage Girls, *Committee Hansard*, 26 November 2020, p. 57.

³⁷ Mr Ian Smith, Branch Secretary, Transport Workers' Union, South Australia/Northern Territory Branch, *Committee Hansard*, 25 November 2020, p. 18.

³⁸ Mr Campbell Dumesny, Chief Executive Officer, Western Roads Federation, *Committee Hansard*, 26 November 2020, p. 13; Victorian Transport Association, *Submission 94*, p. 8; NatRoad, *Submission 47*, p. 12.

³⁹ Mr Peter Biagini, Branch Secretary, Transport Workers' Union, Queensland Branch, *Committee Hansard*, 24 July 2020, pp. 64–65.

⁴⁰ Ms Roxanne Mysko, Chief Executive Officer, United Transport Group, *Committee Hansard*, 25 November 2020, p. 12; Livestock and Rural Transporters Association of Victoria, *Submission 62*, p. 11; Mr Peter Anderson, Chief Executive Officer, Victorian Transport Association, *Committee Hansard*, 19 April 2021, p. 11.

required by the industry of 'in-depth understanding of vehicle mass, dimension and loading requirements—load restraints, safe loading practices—and people's awareness of fatigue management and their own strategies to manage their safety'.⁴¹

5.39 The committee heard that the road transport sector was 'probably the last bastion of insufficiently regulated work practices in transport' where 'anybody over the age of 21 can apply for a heavy vehicle licence and legally undertake a basic driving course over the weekend ... it's about eight hours that you have to do—then get behind the wheel of a commercial 65 tonne B-double freight vehicle'.⁴²

5.40 The heavy vehicle licensing process was identified by some submitters as a disincentive for new industry entrants, both because of its cost for people from low socioeconomic backgrounds⁴³ and for small operators⁴⁴ and because of the time required to progress through the licences.⁴⁵ As Toll Group explained in its submission:

A heavy rigid (HR) licence is possible after two years of holding a car licence. A heavy combination (HC) licence is possible after one year of holding a HR licence. A multicomination (MC) licence is possible after one year of holding a HR or HC licence and undertaking a training course. By the time they're eligible to be truck drivers it is probable that younger people have already embarked on other career paths.⁴⁶

5.41 Furthermore, as NatRoad saw it, this time-based requirement 'delays the natural progression of a young but otherwise highly competent driver in certain [licence] categories'.⁴⁷ The National Farmers' Federation emphasised that a competency focused assessment through 'behind-the-wheel training' which shortened the minimum time required to progress through the licence levels would help address labour shortage issues.⁴⁸ Mr Peter Anderson from

⁴¹ Ms Michelle Harwood, Executive Director, Tasmanian Transport Association, *Committee Hansard*, 29 April 2021, pp. 65–66.

⁴² Dr Daryll Hull, Managing Director, Transport and Logistics Centre, *Committee Hansard*, 8 February 2021, p. 35.

⁴³ Mr Mark Mazza, Chief Executive Officer, South West Express, *Committee Hansard*, 26 November 2020, p. 44.

⁴⁴ National Farmers Federation, *Submission 77*, p. 12.

⁴⁵ See, for example, Livestock and Rural Transporters Association of Victoria, *Submission 62*, p. 11; Mr Peter Anderson, Chief Executive Officer, Victorian Transport Association, *Committee Hansard*, 19 April 2021, pp. 12–13; Mr John Berger, Branch Secretary, Transport Workers' Union, Victoria/Tasmania Branch, *Committee Hansard*, 19 April 2021, p. 26; Mr Cameron Dunn, Managing Director, FBT Transwest, *Committee Hansard*, 20 April 2021, p. 52.

⁴⁶ Toll Group, *Submission 76*, p. 14.

⁴⁷ NatRoad, *Submission 47*, p. 12.

⁴⁸ National Farmers' Federation, *Submission 77*, p. 10.

the Victorian Transport Association argued that 'we'll have better people and we'll have career-driven individuals if we get 18-year-olds, which we can't get now'.⁴⁹

- 5.42 NatRoad, in its submission to the committee, pointed to a number of potential shortcomings of the licensing system, notably that although 'there is a time-based requirement for the gaining or upgrading of a heavy vehicle licence, there is no prerequisite to have driven a heavy vehicle prior to that assessment'.⁵⁰ NatRoad members further reported that appropriate training standards and barriers to entry of untrained operatives entering the industry are not in place, hindering the industry's drive towards increased safety objectives and public respect.⁵¹
- 5.43 ADTA members reported while many trainers and RTOs are committed to providing high quality education, others ran fleets of old technology and delivered training within time periods that were 'grossly insufficient'.⁵²
- 5.44 The need for a uniform system of training that is 'transferable across all states' was emphasised.⁵³ Mr Michael Humphries, director of the ADTA, told the committee that the national standards needed to be based on very prescriptive competencies along the lines of—'[w]e want you to be able to steer the truck well, and here's exactly what we mean by that'. According to the current competencies, Mr Humphries asserted that a driver 'does not need to demonstrate driving at 100 kilometres an hour on a highway or going down a hill and changing gears'.⁵⁴
- 5.45 Mr Mark Mazza of South West Express supported the focus on competencies:

Competency is now the issue. The standard of drivers has fallen to such a level that damage, down time and transiency within the industry is costing untold millions. This cannot continue. All the hard work we have done regarding industry safety through management compliance in the last two decades will soon be undone as a consequence. The system is letting down our industry, other road users and our future driver's.⁵⁵

⁴⁹ Mr Peter Anderson, Chief Executive Officer, Victorian Transport Association, *Committee Hansard*, 19 April 2021, p. 13.

⁵⁰ NatRoad, *Submission 47*, p. 12.

⁵¹ NatRoad, *Submission 47*, p. 7.

⁵² Australian Driver Trainers Association, *Submission 75*, p. 5.

⁵³ Mr John Berger, Branch Secretary, Transport Workers' Union, Victoria/Tasmania Branch, *Committee Hansard*, 19 April 2021, p. 27.

⁵⁴ Mr Michael Humphries, Director, Australian Driver Trainers Association, *Committee Hansard*, 8 February 2021, p. 33.

⁵⁵ South West Express, *Submission 4*, p. 1.

5.46 AIS derided the current time-based licensing progression and stated that the industry had 'called for a competency-based approach as well as supervised driving hours to deliver the best skills to enhance safety outcomes'.⁵⁶

5.47 Mr Paul Walsh, Chief Executive Officer of AIS, told the committee that the training framework already contained 'the competencies needed to support a competency-based licensing approach'.⁵⁷

5.48 The Transport and Logistics Training Package provides nationally recognised VET qualifications for the transport and logistics industry in a number of areas including freight handling, driving operations, driving instruction for heavy vehicles and warehousing and logistics operations.⁵⁸ In its submission, AIS described the purpose and composition of training packages:

Training Packages specify the skills and knowledge required to perform effectively in the workplace through Units of Competency. Training Packages also describe how these units can be packaged into nationally recognised qualifications aligned to the Australian Qualifications Framework and industry recognised Skill Sets.⁵⁹

5.49 AIS stated that in order to ensure skills are consistent with new transport technologies, the Transport and Logistics Industry Reference Committee had developed two new units of competency on chain of responsibility and revised existing units of competency and skill sets relating to the safe commercial operation of heavy vehicles.⁶⁰ Mr Walsh elaborated that:

... workplace health and safety, accident, emergency, load restraint, fatigue management, chain responsibility—all of those things are already available within the qualification frameworks through competency standards. We've also got new standards, which have been developed in recent times, for the new technologies which are evolving with electronic work diaries, in-vehicle monitoring systems, intelligent transport systems, and changes to the way that we deal with fatigue management and distraction management. Again, competency standards exist within the existing framework.⁶¹

5.50 However, despite existence of the competency standards, Mr Walsh explained that 'not all jurisdictions are using it' and as a result there is no harmonised

⁵⁶ Australian Industry Standards, *Submission 37*, pp. 5–6.

⁵⁷ Mr Paul Walsh, Chief Executive Officer, Australian Industry Standards, *Committee Hansard*, 19 April 2021, p. 30.

⁵⁸ Australian Industry and Skills Committee, *Transport and Logistics Industry Reference Committee*, <https://www.aisc.net.au/content/transport-and-logistics-industry-reference-committee> (accessed 15 March 2021); Australian Industry Standards, *Submission 37*, p. 2.

⁵⁹ Australian Industry Standards, *Submission 37*, p. 2.

⁶⁰ Australian Industry Standards, *Submission 37*, p. 7.

⁶¹ Mr Paul Walsh, Chief Executive Officer, Australian Industry Standards, *Committee Hansard*, 19 April 2021, p. 30.

national heavy vehicle licensing. Furthermore, states controlled the implementation of the licensing and there was not necessarily a strong connection between skills and remuneration.⁶² Mr Walsh concluded, 'I guess the thing we want to say is that the framework for skills is available; it's about how it's used, how it's funded and how it's accepted'.⁶³

Bluecard

5.51 Despite it being one of the most dangerous professions in Australia, industry-wide compulsory safety induction credentials do not exist for the road transport industry. However other high-risk sectors, such as construction and rail, have implemented such measures (White Card and Rail Induction Safety Card respectively). In order to address this gap, the road transport sector developed a 'universally recognised and nationally accredited safety training unit' called 'Bluecard', administered by the Transport Education Audit Compliance Health Organisation (TEACHO). Currently Bluecard is not compulsory, which according to the TWU:

...is neither effective nor efficient, resulting in some road transport workers receiving no induction training upon entering the industry, while other workers are provided multiple variants of such inductions unnecessarily.⁶⁴

5.52 The benefit of establishing a 'standardised, universal and compulsory safety induction unit' is improved accessibility, reduced training costs and a lift in the quality of training across the road transport industry.⁶⁵ The TWU called for the establishment of an industry fund (levy) to support broader training and education initiatives.⁶⁶

Attracting new entrants to the industry

5.53 In an industry with an aging workforce where 29 per cent of truck drivers are aged over 55,⁶⁷ the committee was repeatedly told by submitters that Australia is facing a truck driver shortage due to the high attrition rates among the baby

⁶² Mr Paul Walsh, Chief Executive Officer, Australian Industry Standards, *Committee Hansard*, 19 April 2021, p. 31.

⁶³ Mr Paul Walsh, Chief Executive Officer, Australian Industry Standards, *Committee Hansard*, 19 April 2021, p. 34.

⁶⁴ Transport Workers' Union of Australia, *Submission 126*, p. 46.

⁶⁵ Transport Workers' Union of Australia, *Submission 126*, p. 46.

⁶⁶ See paragraph 5.114 for further information about the TWU's funding proposal. Transport Workers' Union of Australia, *Submission 126*, p. 44.

⁶⁷ Bureau of Infrastructure and Transport Research Economics, [National profile of transport, postal and warehousing workers in 2016](#), October 2019, p. 25.

boomer generation, low numbers of new drivers entering the industry and competition from other industries such as mining.⁶⁸

- 5.54 NatRoad drew the committee's attention to a 2016 survey commissioned by Volvo Group Australia which found that 52 per cent of employers reported difficulties attracting the quantity of staff they required and 82 per cent reported problems with driver quality.⁶⁹ Toll Group pointed to productivity losses from trucks in its fleet grounded due to a lack of available labour.⁷⁰ The Northern Territory Road Transport Association and Western Roads Federation identified the shortage of suitably qualified drivers and other staff as the 'single dominant issue for WA and NT transport companies'.⁷¹
- 5.55 AIS noted that the industry was projected to have 7.5 per cent employment growth up to 2026.⁷² By contrast, Monash University estimated that 'the rate of recruitment will need to increase by 150% in order to account for the simultaneous pressures of increased road freight service demand and the loss of retiring drivers'.⁷³
- 5.56 Addressing the lack of young people and need for more diverse entrants in the industry was 'a matter of urgency' among stakeholders.⁷⁴

Young people

- 5.57 Submitters indicated that a significant handicap for the industry was that it was widely regarded as 'low skilled and therefore unattractive to young people wishing to build a career'.⁷⁵ Other perceived deterrents were that the industry was high-risk, with the prospect of job losses due to automation and that drivers had to endure long hours, poor on-road conditions and facilities and adverse impacts on their families and lifestyles.⁷⁶

⁶⁸ See, for example, Mr Andrew Bishop, *Committee Hansard*, 22 November 2019, p. 32; Queensland Trucking Association, *Submission 69*, p. 7; Mr Campbell Dumesny, Chief Executive Officer, Western Roads Federation, *Committee Hansard*, 26 November 2020, p. 11; South West Express, *Submission 4*, p. 1; HPS Transport, *Submission 59*, p. 4.

⁶⁹ NatRoad, *Submission 47*, p. 11 citing Volvo Group Australia, *Professional truck driver shortage: How driver availability impacts industry and Australian society*, May 2016.

⁷⁰ Toll Group, *Submission 76*, p. 14.

⁷¹ Northern Territory Road Transport Association and Western Federation, *Submission 82*, p. 8.

⁷² Mr Paul Walsh, Chief Executive Officer, Australian Industry Standards, *Committee Hansard*, 19 April 2021, p. 30.

⁷³ Monash University Insurance Work and Health Group, *Submission 53*, p. 2.

⁷⁴ Toll Group, *Submission 76*, p. 15.

⁷⁵ Victorian Transport Association, *Submission 94*, p. 7.

⁷⁶ Northern Territory Road Transport Association, and Western Roads Federation, *Submission 82*, pp. 9–10; Mr Richard Olsen, Branch Secretary, Transport Workers' Union of New South Wales, *Committee Hansard*, 8 February 2021, p. 26.

5.58 In its appearance before the committee, the Queensland Trucking Association put forward a number of reasons as to why entering the industry as a diver would be beneficial:

... there are a lot of other opportunities within the industry and a whole variety of different roles. Even if you go right back to career counselling in schools, I think you'd go through a fair few schools to find a career counsellor who'd mention road freight... there are plenty of truck drivers who become business owners. In fact, the great majority of trucking businesses would be owned and operated by people who originally started off as a truck driver. So it is a great opportunity to get a start and grow into a successful business, and there's a whole raft of other opportunities in logistics – scheduling, allocating, HR.⁷⁷

5.59 According to NatRoad, the road transport industry offers a multitude of roles for industry participants from 'yard hand and driver to compliance officer and general manager'. However, these pathways are both under-developed and poorly understood. NatRoad submitted that career pathways could provide:

... a series of connected education and training strategies and support services that enable individuals to secure industry relevant certification and obtain employment within an occupational area and to advance to higher levels of future education and employment in that area.⁷⁸

5.60 Effective career pathways, in NatRoad's view, should include a specific focus on the needs of the workforce, a curriculum that makes 'work a central context for learning and work readiness skills', credit for prior learning, career advancement for education and employment in the industry, financial support for participants and design and oversight 'through a collaborative partnership between government, industry representatives, employers, education providers, and other industry stakeholders'.⁷⁹

5.61 A number of industry stakeholders argued that a reason the industry did not appear to be an attractive career option for new entrants was the lack of appreciation or recognition of drivers' experience and qualifications.⁸⁰ Mr Peter Biagini, branch secretary of the Queensland Transport Workers' Union, pointed to the advanced skills and responsibilities needed to cart fuel and dangerous goods, noting 'we've got to acknowledge these skills to a stage

⁷⁷ Mr Gary Mahon, Chief Executive Officer, Queensland Transport Association, *Committee Hansard*, 24 July 2020, p. 43

⁷⁸ NatRoad, *Submission 47*, p. 12.

⁷⁹ NatRoad, *Submission 47*, p. 12.

⁸⁰ See, for example, Mr Jerry Brown-Sarre, *Submission 9*, p. 12; Mr Michael Humphries, Director, Australian Driver Trainers Association, *Committee Hansard*, 8 February 2021, p. 32; Ms Sharon Middleton, President, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 4; Mr Campbell Dumesny, Chief Executive Officer, Western Roads Federation, *Committee Hansard*, 26 November 2020, p. 13.

where a professional truck driver is seen as having a profession equal to a tradesperson'.⁸¹

- 5.62 Mr Biagini identified the lack of a link between pay and skills as a deterrent to young people, noting, 'You should be recognised every time you learn something; you should get certain modules for it and keep adding to that.'⁸² The Australian Road Transport Industrial Organisation indicated that many workers 'remain at the same level of recognition and remuneration after decades of hard work and therefore do not gain the elevation and rewards that are often seen in other industries'.⁸³
- 5.63 Owner operator Mr Chris Roe argued that qualifications were the foundation to attracting quality people into the industry and that when they have that, they 'can then expect to be paid, remunerated and valued for the qualification that they've got'.⁸⁴

Insurance

- 5.64 A further difficulty with employing and training young drivers identified by transport company South West Express was obtaining affordable insurance:

Insurance providers put onerous financial restrictions on employers who employ people under the age of 25 and or who have less than 2 years' experience. This can be as much as \$10,000 on top of an excess of \$4000 or more. So, if a transport operator employs an MC driver, who by law is deemed to be competent by virtue of the fact they have the licence. The employer can be hit with a \$15000 excess bill if an incident takes place. For many in our industry with tight margins, this is a risk too great to take. So how does the licence holder gain experience?⁸⁵

- 5.65 Mr Walsh told the committee of one transport insurance provider who offered lower premiums for drivers aged under 25 years who had received training to an agreed standard.⁸⁶ Mr Graeme Howell, Secretary of the Livestock and Rural Transporters Association of Victoria, suggested:

As an employer, if you get a young person that has not had two years' experience or is under 25, you've got increased insurance costs, and there

⁸¹ Mr Peter Biagini, Branch Secretary, Transport Workers' Union, Queensland Branch, *Committee Hansard*, 24 July 2020, p. 65.

⁸² Mr Peter Biagini, Branch Secretary, Transport Workers' Union, Queensland Branch, *Committee Hansard*, 24 July 2020, p. 65.

⁸³ Australian Road Transport Industrial Organisation, *Submission 72*, p. 15.

⁸⁴ Mr Chris Roe, Owner-Operator, Roe's Holdings, *Committee Hansard*, 22 November 2019, p. 50.

⁸⁵ South West Express, *Submission 4*, p. 1.

⁸⁶ Mr Paul Walsh, Chief Executive Officer, Australian Industry Standards, *Committee Hansard*, 19 April 2021, p. 34.

should be some way that you can get rewards for industry experience to offset those costs.⁸⁷

Forklift drivers

5.66 The committee was told that forklift driving had long been a career entry point for mechanics, warehouse workers and truck drivers.⁸⁸

5.67 Since changes to the model work health and safety regulations, 'high risk work' including forklift driving, can only be performed by holders of a high risk licence who are over 18 years of age. Forklift and other high risk work licences are issued by state or territory work health and safety regulators.⁸⁹

5.68 Stakeholders argued that the road transport industry needed the age limit for operating forklifts to be reinstated at 16 years.⁹⁰ Ms Sharon Middleton, President of the South Australian Road Transport Association (SARTA), explained that forklift driving provided young people with a wage that attracted them to the industry. Once there, they could begin the career pathway towards heavy vehicles:

... if you can start someone at 16, you can teach them all about load placement—loading trucks with the correct weight on the different axles. You can teach them about load restraint—how to make sure things are tied down as they should be for transport. You can teach them about paperwork—the need for all that to be done correctly. That can lead to that person getting a rigid licence. Because they have done all that time in the warehouse, they know all about how to load and unload their truck. Then they learn all about the road rules and managing something bigger on the highway. From there, they can go to semi. From semi they can then go up to MC, which is the B-double and road train work.⁹¹

5.69 Mr Steven Shearer, Executive Officer with SARTA and board member with the South Australian Training and Skills Commission, described steps being taken in South Australia to enable the safe use of forklifts by junior staff:

The model we have developed here with the minister—and we're working through the South Australia government—is a traineeship with a formal contract of training. That requires particular levels of supervision and training. So as not to offend the national work health and safety regime, we

⁸⁷ Mr Graeme Howell, Secretary, Livestock and Rural Transporters Association of Victoria, *Committee Hansard*, 19 April 2021, p. 39.

⁸⁸ Ms Sharon Middleton, President, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 2; Mr Jan de Bruyn, Chairman, Tasmanian Transport Association, *Committee Hansard*, 29 April 2021, p. 64.

⁸⁹ Safe Work Australia, *Licences*, <https://www.safeworkaustralia.gov.au/licences> (accessed 16 March 2021).

⁹⁰ See, for example, HPS Transport, *Submission 59*, p. 4.

⁹¹ Ms Sharon Middleton, President, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 4.

don't provide a national forklift licence; we'll provide a restricted licence ... the use of that licence would be restricted to [a] depot. Properly managed and supervised, our current estimate is that it will open up some 800 jobs for 16- to 18-year-olds in this state.⁹²

- 5.70 SARTA argued that the South Australian model could be applied more broadly nationally.⁹³

Women in the industry

- 5.71 The committee was told of some of the challenges facing women entering and working in the road transport industry and also initiatives to support women that are already in place.
- 5.72 Toll Group submitted that women were deterred from driving trucks by 'a lack of facilities in rest areas (especially toilets), security concerns, shift work, long working days and/or family responsibilities'. It also added that these issues 'have clearly not been addressed in any meaningful way over the last ten years'.⁹⁴ Mr John Berger, branch secretary of the Victoria/Tasmania Transport Workers' Union, indicated that similar issues were faced by women in the bus industry despite them being employed in significant numbers.⁹⁵
- 5.73 Ms Heather Jones told the committee about the establishment of Pilbara Heavy Haulage Girls in 2014 by a group of women who were 'concerned about women not getting an opportunity to join the industry'. The venture, which aims to provides professional development opportunities and career pathways for newly licensed truck drivers, demonstrated that there was demand for the company's services:

If you are a young man or a male with no experience, the chances of you getting a job in the industry are very limited. If you're a female with no experience then you've got no hope of getting a job in the industry. When we started Pilbara Heavy Haulage Girls we did one ABC radio interview about what we were going to do, and within six months we had 500 drivers all over Australia on our waiting list.⁹⁶

- 5.74 Ms Jacqueline Brotherton, Chair of Transport Women Australia, stated that to attract women, there needed to be a clear pathway into the industry. She described some of the training Transport Women Australia had been involved

⁹² Mr Steven Shearer, Executive Officer, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 4.

⁹³ Mr Steven Shearer, Executive Officer, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, pp. 5–6.

⁹⁴ Toll Group, *Submission 76*, p. 14.

⁹⁵ Mr John Berger, Branch Secretary, Transport Workers' Union of Australia Victoria/Tasmania Branch, *Committee Hansard*, 19 April 2021, p. 28.

⁹⁶ Ms Heather Jones, Chief Executive Officer, Pilbara Heavy Haulage Girls, *Committee Hansard*, 26 November 2020, p. 56.

in including a four to six week mentoring and female-only driving program in association with Wodonga TAFE and a number of transport companies. After completing the training, participants that pass the HR licence test are employed by the companies they trained with. Transport Women Australia also offers industry-sponsored scholarships in a broad range of transport industry roles including engineering and operations.⁹⁷

- 5.75 Ms Brotherton also canvassed the promotional work of Transport Women Australia, including taking trucks to Girl Guides, and emphasised that the industry needed to be represented at career forums. She reported on the difficulty in maintaining funding for promotional and training programs and suggested that this was an area in which government could assist.⁹⁸

Industry training

- 5.76 The committee heard evidence that a stronger focus on practical, hands-on experience was an essential adjunct to heavy vehicle formal qualifications. The sections below discuss industry training already in operation and possible models for including formalised industry training in the form of an apprenticeship, traineeship or mentoring scheme.

Mentoring and in-house training

- 5.77 Industry participants expressed strong support for the value of one-on-one driver training, along the lines of the more informal training with family members or mentoring from experienced drivers that traditionally constituted industry training in the past.⁹⁹
- 5.78 Dr Daryll Hull, Managing Director of the Transport Logistics Centre, suggested that particularly in regional areas, where it was more difficult to access formal training programs, the government could fund experienced drivers who could 'share knowledge, perhaps even on a structured basis for the last couple of years before they retire'.¹⁰⁰

⁹⁷ Ms Jacqueline Brotherton, Chair, Transport Women Australia Limited, *Committee Hansard*, 20 April 2021, pp. 27–28.

⁹⁸ Ms Jacqueline Brotherton, Chair, Transport Women Australia Limited, *Committee Hansard*, 20 April 2021, p. 29.

⁹⁹ See, for example, Mr Michael Humphries, Director, Australian Driver Trainers Association, *Committee Hansard*, 8 February 2021, p. 33; Mr Chris Roe, Owner-Operator, Roe's Holdings, *Committee Hansard*, 22 November 2019, p. 48; Mr David Cullen, Transport Workers' Union, Queensland Branch, *Committee Hansard*, 24 July 2020, p. 71; Dr Daryll Hull, Managing Director, Transport and Logistics Centre, *Committee Hansard*, 8 February 2021, p. 37.

¹⁰⁰ Dr Daryll Hull, Managing Director, Transport and Logistics Centre, *Committee Hansard*, 8 February 2021, p. 37.

- 5.79 As Mr David Cullen of the Queensland Transport Workers' Union expressed it, industry entrants should have 'a tour of experience to get through'.¹⁰¹
- 5.80 The committee was told that there are only a few companies—usually large corporates—that employ driver trainers. For other small companies, the cost was simply too great to pay two people to drive when one of them is training.¹⁰² In Western Australia, companies employing driver trainers were estimated to 'only account for 0.1% of the 7,000 registered transport companies in WA'.¹⁰³
- 5.81 Mr Rodney McIntosh from O'Brien Transport reported that his company trained young people out of school by starting them on small trucks that they could drive with a car licence and then paid them to upgrade their licence to heavy rigid trucks.¹⁰⁴ Mr Scott Finemore reported that Ron Finemore Transport used a buddy system where new people are assigned to a driver for a week and then progressed to harder runs.¹⁰⁵
- 5.82 However some witnesses spoke of a reluctance for smaller companies to train because 'you put the effort into training them, and then somebody comes along and poaches them'.¹⁰⁶
- 5.83 Mr Chris Roe of Roe's Holdings suggested that a scheme be implemented where companies were 'protected by some sort of an indenture ... where they could somehow or other retain that employee for a period where they could regain their investment in him or her'.¹⁰⁷
- 5.84 Mr Jan de Bruyn, Chairman of the Tasmanian Transport Association, remarked that 'responsible operators that actually put people through the training and

¹⁰¹ Mr David Cullen, Transport Workers' Union, Queensland Branch, *Committee Hansard*, 24 July 2020, p. 71.

¹⁰² See, for example, Livestock and Rural Transporters Association of Victoria, *Submission 62*, p. 12.

¹⁰³ Northern Territory Road Transport Association, and Western Roads Federation, *Submission 82*, p. 11.

¹⁰⁴ Mr Rodney McIntosh, Human Resources and Compliance Manager, O'Brien Transport, *Committee Hansard*, 22 November 2019, p. 42.

¹⁰⁵ Mr Scott Finemore, General Manager, Ron Finemore Transport, *Committee Hansard*, 22 November 2019, p. 65.

¹⁰⁶ Mr Chris Roe, Owner-Operator, Roe's Holdings, *Committee Hansard*, 22 November 2019, p. 51. See also Mr Mark Mazza, Chief Executive Officer, South West Express, *Committee Hansard*, 26 November 2020, p. 45; Mr Paul Walsh, Chief Executive Officer, Australian Industry Standards, *Committee Hansard*, 19 April 2021, p. 32; Mr Jan de Bruyn, Chairman, Tasmanian Transport Association, *Committee Hansard*, 29 April 2021, p. 64.

¹⁰⁷ Mr Chris Roe, Owner-Operator, Roe's Holdings, *Committee Hansard*, 22 November 2019, p. 51.

get them their licences ... should be given some funding for the work that they've done'.¹⁰⁸

- 5.85 Mr Walsh from AIS concluded that training was 'not just on government but on industry as well—to co-invest, to make sure that both are contributing to the development and professionalisation, because it is industry that is calling out for professional drivers'.¹⁰⁹

Apprenticeships

- 5.86 Inquiry participants focused on the possibility of introducing apprenticeships or traineeship to link school leavers to employment in the road transport industry.
- 5.87 In its *Transport and Logistics Skills Forecast* for 2020, AIS stated that there were 'no traditional apprenticeships in the Transport and Logistics' industry nationally'.¹¹⁰
- 5.88 Stakeholders emphasised that securing the interest of young people in the period immediately after they left school and before they entered other fields was crucial.¹¹¹
- 5.89 The Victorian Transport Association noted that while there were formal educational qualifications available in the form of the VET Certificates III and IV in Driving Operations, these courses did not engage with the 'coal face' of the industry, including 'the fundamental workings of running a truck' and the 'manual, technical and emotional requirements to manage a heavy vehicle on our roads today'.¹¹²
- 5.90 Apprenticeships offered to students with years 10 to 12 qualifications could provide a pathway, linking training, licensing and experience with employment.

Structure of apprenticeships

- 5.91 Submitters and witnesses provided a number of models on how an apprenticeship or trainee scheme might operate. Mr Laurie D'Apice, chairman

¹⁰⁸ Mr Jan de Bruyn, Chairman, Tasmanian Transport Association, *Committee Hansard*, 29 April 2021, p. 65.

¹⁰⁹ Mr Paul Walsh, Chief Executive Officer, Australian Industry Standards, *Committee Hansard*, 19 April 2021, p. 32.

¹¹⁰ Australian Industry Standards, *Transport and Logistics Skills Forecast*, 2020, p. 11.

¹¹¹ See, for example, Mr Gordon Mackinlay, President, National Road Freighters Association, *Committee Hansard*, 22 November 2019, p. 22; Ms Roxanne Mysko, Chief Executive Officer, United Transport Group, *Committee Hansard*, 25 November 2020, p. 15.

¹¹² Victorian Transport Association, *Submission 94*, p. 7.

of AIS, suggested a one or two-year program, part driving and part warehouse-based.¹¹³

5.92 Mr Campbell Dumesny, Chief Executive Officer of the Western Roads Federation, proposed a three-year traineeship where trainees were employed by courier and warehousing companies for the first few years, 'driving a forklift and starting with the basic vehicles'. They would then progress to the next licence level (HR) where they could be employed driving concrete trucks, finally reaching a heavy combination level.¹¹⁴

5.93 To Ms Roxanne Mysko of United Transport Group, an apprenticeship should be a highly structured three- to four-year program:

It would be modelled on what we already have in ASQA as well as other qualifications—not shortcutting ... It would be four years of working inside road restraint—how to look after a vehicle, basic maintenance of a vehicle—and doing some work inside a workshop. They do need to have some hands-on then, especially long-distance. They need to understand the dangers of changing a tyre. And then they could progress through a heavy rigid through to a HC through to an MC. They should be put in for X amount of time with another experienced operator so they get to sit there and watch. That's how they learn.¹¹⁵

5.94 The combination of VET and hands-on industry training was also advocated by the Australian Road Transport Industrial Organisation¹¹⁶ and Ms Jones, who stated:

I don't know about an apprenticeship. I'd prefer a traineeship or a cadetship, perhaps, but with the same training package delivered to every single company so that that can be delivered through a TAFE system.¹¹⁷

5.95 A business-driven model for entry-level skills development was favoured by Mr John Mitchell over an apprenticeship or training delivered by RTOs. He maintained, 'if there was a business that could supply or build people into great truck drivers, and wanted to do that, they should be encouraged to do that'.¹¹⁸

¹¹³ Mr Laurie D'Apice, Chairman, Australian Industry Council, *Committee Hansard*, 19 April 2021, pp. 32–33.

¹¹⁴ Mr Campbell Dumesny, Chief Executive Officer, Western Roads Federation, *Committee Hansard*, 26 November 2020, p. 13.

¹¹⁵ Ms Roxanne Mysko, Chief Executive Officer, United Transport Group, *Committee Hansard*, 25 November 2020, p. 15.

¹¹⁶ Australian Road Transport Industrial Organisation, *Submission 72*, p. 15.

¹¹⁷ Ms Heather Jones, Chief Executive Officer, Pilbara Heavy Haulage Girls, *Committee Hansard*, 26 November 2020, p. 58.

¹¹⁸ Mr John Mitchell, Chief Executive Officer, Mitchell's Transport, *Committee Hansard*, 26 November 2020, p. 53.

5.96 NatRoad informed the committee that in January 2019 it had submitted a proposal for an apprenticeship training model for heavy vehicle operators to the Transport and Logistics Industry Reference Committee. The proposal included a 'progressive, experience-based grounding in the industry' for school leavers that would result in participants gaining a combination heavy vehicle licence at around 20 years of age and a new VET qualification, the Certificate III in Professional Driving.¹¹⁹ The scheme was designed to build capability while retaining flexibility:

The apprenticeship program is designed to introduce standardised industry-led training without being employer or stream specific. It would also ensure that drivers are more prepared to meet and accommodate the changes occurring in the road transport industry with skills that are transferable to other roles within the transport and logistics sector, thereby offering drivers a more certain career path.¹²⁰

5.97 Mrs Jan Cooper stated that the Livestock and Rural Transport Association of Western Australia was 'ambivalent about whether it should be an apprenticeship or a traineeship or some other mechanism', but suggested financial support and accommodation subsidies for rural young people.¹²¹

Funding

5.98 The committee heard that companies with in-house training programs take the financial cost of doing so on themselves. Ms Jones told the committee about the industry training program that Pilbara Heavy Haulage Girls had instituted for newly licensed drivers since 2010. She explained that the company offered one-on-one driver training with senior driver-trainers while performing jobs for clients, but that the training received no external funding:

Since 2016, we've trained 62 drivers. Since 2005, with our previous training, we've had 200 drivers go through our training system. We do not get paid for this. We do not get any funding for this. This is all funded by our own family business. It's a real live transport company. We put those funds back into these drivers and then place them out with industry.¹²²

5.99 Ms Jones explained that the company needed funding for accommodation for the trainees due to high rents in its base in Karratha, Western Australia. Furthermore, she estimated it took 160 hours to train a driver and \$5000 per person to recover costs.

¹¹⁹ NatRoad, *Submission 47*, p. 13.

¹²⁰ NatRoad, *Submission 47*, p. 14.

¹²¹ Mrs Janet Cooper, Chief Executive Officer, Livestock and Rural Transport Association of Western Australia, *Committee Hansard*, 26 November 2020, p. 20.

¹²² Ms Heather Jones, Chief Executive Officer, Pilbara Heavy Haulage Girls, *Committee Hansard*, 26 November 2020, p. 56.

5.100 The TWU emphasised the need for effective resourcing of industry-wide training and proposed the establishment of an industry levy 'which would be borne by all employers and users of transport services through the supply chain'. It submitted that:

This levy would be administered in a tripartite manner by the government, employers and the union to ensure that resources are directed towards auditing, training, safety, compliance and accountability in the transport industry.¹²³

5.101 Mr Dumesny pointed to a need for government support for industry traineeships:

... we've got a proposal from one company who is prepared to employ 25 people a year as apprentices over three years, So, over a five-year period, they will train 125 people. They will pay 80 per cent of their wages and costs throughout the training. They are looking for a 20 per cent offset from the government. That's fair, but we're struggling to push that through.¹²⁴

5.102 Transport operator Mr Mazza suggested that the federal and state governments and industry each pay a third of the cost for an apprenticeship scheme, with a compulsory levy on licensing.¹²⁵

5.103 NatRoad also supported combined government and industry funding, and signalled its willingness to work with the federal department of education to identify available funding for the development of career pathways.¹²⁶

State industry initiatives

5.104 The committee was informed of initiatives in education and training being undertaken by industry organisations in conjunction with state governments.

5.105 Representatives from SARTA informed the committee of a heavy vehicle simulator to be delivered in partnership with the South Australian Government which would enable heavy vehicle drivers to train to safely navigate the South Eastern Freeway descent and other high risk routes. SARTA is also looking at simulations on anti-rollover training, particularly for the livestock industry, and skills training such as reversing and negotiating

¹²³ Transport Workers' Union, *Submission 126*, p. 46.

¹²⁴ Mr Campbell Dumesny, Chief Executive Officer, Western Roads Federation, *Committee Hansard*, 26 November 2020, p. 13.

¹²⁵ Mr Mark Mazza, Chief Executive Officer, South West Express, *Committee Hansard*, 26 November 2020, p. 47.

¹²⁶ NatRoad, *Submission 47*, p. 15.

high volume urban traffic. An NHVR heavy vehicle safety grant program contributed to the cost of the technology.¹²⁷

5.106 The Western Roads Federation reported on its collaboration with the Transport Workers' Union and Western Australian Government to establish a driving academy to improve pathways to employment in Western Australia.¹²⁸ The academy would be modelled on the Victorian Transport Association's Driver Delivery program, a fully subsidised eight-day program which provides 'individually tailored training, mentoring, and behind-the-wheel driving experience to new drivers of heavy vehicles'.¹²⁹

5.107 Mr Peter Anderson explained the Driver Delivery program in more detail:

There are 152 units, which are measurable with KPIs that we could deliver to the education industry en masse tomorrow. We have a 274-page instructor's manual. That's how that's how in-depth we've gone into this. We've delivered 160 drivers to companies in Australia, and the drivers are now job ready from the time they are trained.¹³⁰

Advanced driver skills

5.108 The committee was informed that in addition to training for new industry entrants there was a need for regular reassessment, ongoing training and advanced driver skills.¹³¹ Dr Hull suggested that drivers should undergo mandatory driver refresh programs 'preferably annually but at least every five years'.¹³²

5.109 Upskilling was required to prepare drivers for increased automation in the industry. The Australian Logistics Council pointed out that 'the increasing influence of technology in the operation of heavy vehicles will demand a broader range of skills than may have previously been applicable in the industry'.¹³³

¹²⁷ National Heavy Vehicle Regulator, *Virtual reality meets road safety in heavy vehicle simulator*, 30 October 2020, <https://www.nhvr.gov.au/news/2020/10/30/virtual-reality-meets-road-safety-in-heavy-vehicle-simulator> (accessed 16 March 2021); Ms Sharon Middleton, President, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, pp. 2–3.

¹²⁸ Northern Territory Road Transport Association and Western Roads Federation, *Submission 82*, p. 11.

¹²⁹ Victorian Transport Association, *Driver delivery*, <https://vta.com.au/driver-delivery/> (accessed 16 March 2021).

¹³⁰ Mr Peter Anderson, Chief Executive Officer, Victorian Transport Association, *Committee Hansard*, 19 April 2021, p. 12.

¹³¹ Mr Mike Williams, *Submission 104*, p. 13.

¹³² Dr Daryll Hull, Managing Director, Transport and Logistics Centre, *Committee Hansard*, 8 February 2021, p. 36.

¹³³ Australian Logistics Council, *Submission 63*, p. 18.

Chapter 6

Road transport infrastructure

- 6.1 Governments at all levels face challenges to provide the necessary infrastructure for the road transport industry to operate in the most efficient, effective and safe manner possible.
- 6.2 Growing road use requirements including increased heavy vehicle volumes and freight loads, public transport expansion and urban congestion combined with an ageing infrastructure subject to extreme weather events, are some of the difficulties facing road managers throughout the country.¹
- 6.3 Stakeholders stressed that road transport infrastructure is a productivity issue as well as a safety issue and that roads, freight infrastructure, urban planning, regulatory controls and facilities are not keeping pace with the current and projected volumes of freight movement and technological advances.

Roads

Road quality and maintenance

- 6.4 Stakeholders raised issues with ageing, unsurfaced and poorly maintained roads in the Australian road network. Narrow lanes, uneven surfaces and unsafe shoulders were seen by the South Australian Road Transport Association (SARTA) to present a particular risk, with SARTA president Ms Sharon Middleton insisting that road construction projects needed to include road maintenance funding for the life of a road.²
- 6.5 HPS Transport submitted that poor quality roads added to the costs and risks of the transport industry, due to slower travelling times, increased maintenance costs from damage done to vehicles and the increased chance of serious or fatal collisions. It pointed particularly to a heavy vehicle roll-over hazard on a 185-kilometre stretch of the Great Eastern Highway, between Coolgardie and Southern Cross in Western Australia.³
- 6.6 The safety implications of poor roads were a focus of a number of submitters including the Australian Trucking Association (ATA), which cited statistics from Austroads that the road is 'a causation factor in about 30 per cent of all crashes and is a factor in the severity of 100 per cent of crashes'. The ATA also

¹ Queensland Department of Transport and Main Roads, *Submission 25*, p. 5.

² Ms Sharon Middleton, President, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 1.

³ HPS Transport, *Submission 59*, p. 3.

expressed concerns that the Australian Government invested in roads under the *National Land Transport Act 2014* but safety was not an object of the Act.

6.7 The ATA argued that the Australian Government should change its approach to funding road projects to: require that project assessments use the willingness-to-pay approach in valuing the lives saved and injuries avoided from safety improvements; prioritise funding for projects aimed at minimising road safety risks; and require the adoption of safe system principles for project design.⁴

6.8 The Royal Australasian College of Surgeons referred in its submission to the Australian Road Assessment Program star rating of roads, ranging from one star (least safe) to five stars (most safe) for road safety. It contended that:

... seven per cent of all road travel in Australia is undertaken on one-star roads, and 28 per cent of travel is undertaken on two-star roads. It is estimated that road deaths and severe injuries could be minimised by up to one-third if Australia achieves its target of having 90 per cent of travel on National Highways to be on 3-star or better roads, and 80 per cent of travel on state roads to be 3-star or better.⁵

6.9 Road transport and road safety advocate Mr Rod Hannifey pointed out that road deformations damaged trucks and the trucks in turn damaged the roads. He reported that data collected from trucks on the 'impacts from road irregularities' could be used to identify roads requiring maintenance. He observed from his own truck the considerable impact that poor roads could have on heavy vehicles:

The worst impact so far was 2.3 G. Over twice the weight of the load on the road. We would be taken off the road and fined severely for such an overload, yet are expected to both suffer the damage to the truck and driver and simply accept this.⁶

6.10 The Queensland Department of Transport and Main Roads (TMR) called for increased funding by the Australian Government for the largely federally funded National Land Transport Network. The TMR pointed to its four-year \$23 billion program of road and transport infrastructure projects, the Queensland Transport and Roads Investment Program, which included \$3.12 billion allocated for maintenance projects, and noted that:

The Queensland Government continues to steadily increase its commitment towards funding of maintenance for the road network in

⁴ Australian Trucking Association, *Submission 91*, p. 3.

⁵ Royal Australasian College of Surgeons, *Submission 38*, p. 2.

⁶ Mr Rod Hannifey, *Submission 45*, p. 3.

Queensland. The Australian Government only contributes some 50 per cent towards its share of these maintenance costs.⁷

Rural and regional roads

- 6.11 Engineers Australia questioned the allocation of road funding and the focus on urban over rural roads. Engineering economist Mr Scott Elaurant told the committee that urban projects 'soak up a lot of the budget' and that budgets to 'maintain and improve the condition of rural roads, which is where three-quarters of fatalities occur, have if anything shrunk'. He argued for that imbalance to be redressed.⁸
- 6.12 The Northern Territory Road Transport Association (NTRTA) and Western Roads Federation (WRF) advocated for further investment by the federal government to ameliorate issues for regional areas including the need for road and bridge widening, overtaking lanes and the removal of low power lines.⁹ NTRTA and WRF raised concerns about 'inequitable' federal road investment, noting that the entire federal blackspot funding for the Northern Territory in 2018–19 was less than the money spent by the Victorian Government on a single East Melbourne intersection.¹⁰
- 6.13 The Northern Territory Department of Infrastructure, Planning and Logistics (Northern Territory department) pointed to road reliability issues in the Northern Territory caused by wet season flooding and the lack of alternatives to major highway links connecting the Territory with Queensland, Western Australia and South Australia. The Northern Territory department noted that it could be 'cost prohibitive for industry to invest in the Territory given [its] road reliability issues and high vehicle maintenance costs of heavy vehicles using unsealed roads'.¹¹
- 6.14 The Australian Livestock and Rural Transporters Association (ALRTA) commented on what it saw as the 'appalling' state of roads in most parts of rural Australia due to 'chronic under investment' from successive federal, state

⁷ Queensland Department of Transport and Main Roads, *Submission 25*, p. 5; Mr Neil Scales, Director-General, Department of Transport and Main Roads, answers to questions on notice, 24 July 2020 (received 13 August 2020).

⁸ Mr Scott Elaurant, Member, Engineers Australia, *Committee Hansard*, 29 April 2021, p. 15.

⁹ Northern Territory Road Transport Association, and Western Roads Federation, *Submission 82*, p. 8.

¹⁰ Northern Territory Road Transport Association, and Western Roads Federation, *Submission 82*, p. 7.

¹¹ Northern Territory Department of Infrastructure, Planning and Logistics, *Submission 49*, pp. 3–4.

and local governments.¹² It argued that 'we should be able to get a B-double to almost every farm gate in Australia'.¹³

6.15 ALRTA asserted that many rural freight routes simply could not support high productivity vehicles capable of carrying heavier loads.¹⁴ This frustrated agricultural producers' efforts to reduce freight costs. ALRTA argued that to be competitive in the global market, Australia must identify the 'most important economic and tourism roads across rural and regional Australia' and 'make the necessary investment to drive down freight costs on these corridors'.¹⁵ ALRTA submitted that the Australian Government should:

- Consult with agricultural producers, rural carriers, processors, exporters and tourism stakeholders to identify the most important freight routes in rural and regional Australia;
- Assess the quality of each freight route;
- Establish a minimum service level standard for the rural freight and tourism network;
- Prioritise upgrades on key freight routes to rapidly remove critical safety and productivity bottlenecks;
- Establish a longer-term plan to upgrade the entire network to meet minimum service level standards; and
- Leverage matching funds from State and Local Governments to maximise overall upgrade potential and ensure that all current programs are working towards a common goal.¹⁶

6.16 The National Heavy Vehicle Regulator (NHVR) reported that it had received an \$8 million grant over two years to work with local governments across Australia to assess road infrastructure assets, with a primary focus on bridges. This program, which commenced in late 2019, would assess the condition of local government infrastructure and identify the upgrades necessary to enable use by heavy vehicles. The NHVR suggested that a 'coordinated effort is required between all levels of government to continue to support these funding arrangements, such as a dedicated annual fund for assessments as well as capital upgrades and maintenance'.¹⁷

¹² Australian Livestock and Rural Transporters Association, *Submission 12*, p. 11.

¹³ Mr Mat Munro, Executive Director, Australian Livestock and Rural Transporters Association, *Committee Hansard*, 28 April 2021, p. 38.

¹⁴ Australian Livestock and Rural Transporters Association, *Submission 12*, p. 11.

¹⁵ Australian Livestock and Rural Transporters Association, *Submission 12*, p. 13.

¹⁶ Australian Livestock and Rural Transporters Association, *Submission 12*, p. 14.

¹⁷ National Heavy Vehicle Regulator, *Submission 52*, p. 7; National Heavy Vehicle Regulator, Strategic Local Government Asset Assessment Project (SLGAAP), <https://www.nhvr.gov.au/about-us/strategic-local-government-asset-assessment-project> (accessed 23 March 2021).

- 6.17 The Western Australian grain export and supply company Co-operative Bulk Handling (CBH Group) informed the committee of the Revitalising Agricultural Regional Freight Strategy in Western Australia, which was guiding future state government investment in infrastructure projects, particularly in grain growing regions, over the next 10 to 15 years. In CBH Group's view, this was 'an important step in improving supply chain efficiencies'.¹⁸

Road access

- 6.18 The Livestock and Rural Transport Association of Western Australia (LRTAWA) expanded on the efficiency implications of road management practices in rural areas, observing that 'decisions on access for heavy vehicles are frequently made on the basis of protecting an ageing, un-maintained asset' which prevented high productivity vehicles from operating on the road network. LRTAWA gave an example of a freight connectivity issue affecting the abattoirs near Treeton in Western Australia:

Long standing access of approximately eight years to Treeton Road North (a 4.5km section of road) was suddenly denied at the request of the Shire due to alleged road geometry issues. This required transporters delivering cattle to the abattoir to stop prior to Treeton Road North and break up into a smaller combination and ferry animals in. The remaining animals had to be left in a trailer on the side of the road whilst this happened. This restriction also had the effect of severing connectivity of the route between feedlots and abattoirs with the alternative route being 35km further and taking 40 minutes longer. This route requires the driver to drive on a dangerous road and travel through a small town. The previous route had been used for eight years without incident.¹⁹

- 6.19 LRTAWA addressed the perception that heavy vehicles are to blame for the poor state of roads, countering that 'if the roads were built to a high standard and maintained under a program of preventative maintenance the perceived impact of heavy vehicles would be less'.²⁰ NatRoad noted that planning for improved road infrastructure had to take place in tandem with reform of road access requirements.²¹
- 6.20 CBH Group expressed strong concern at a MainRoads WA proposal to allow local and state governments to refuse applications for access for heavy vehicle combinations 'unless the freight generator agrees to enter into a road maintenance agreement or otherwise provides funding to the road manager'.

¹⁸ CBH Group, *Submission 68*, pp. 3–4; Western Australia Department of Transport, Revitalising Agricultural Region Freight Strategy, <https://www.transport.wa.gov.au/Freight-Ports/revitalising-agricultural-region-freight-strategy.asp> (accessed 24 March 2021).

¹⁹ Livestock and Rural Transport Association of Western Australia, *Submission 61*, p. 4.

²⁰ Livestock and Rural Transport Association of Western Australia, *Submission 61*, p. 3.

²¹ NatRoad, *Submission 47*, p. 9.

CBH Group argued that structural changes to the funding that local governments received from state and federal governments needed to be addressed before resorting to user charges.²²

Metropolitan roads

- 6.21 Some inquiry participants expressed frustration that despite the increased demand for transport to support online shopping, waste collection and construction, urban centres did not cater for the needs of the road transport industry. The potential scale of the issue was illustrated by the Department of Infrastructure, Transport, Cities and Regional Development, which submitted that urban freight was predicted to grow by nearly 60 per cent over the 20 years to 2040.²³
- 6.22 WRF outlined some of the challenges faced by heavy vehicle drivers in urban environments including narrow suburban streets, low power lines and trees, and the lack of street parking for loading and delivery services.²⁴ WRF also pointed to curfews and other access restrictions that 'push the road freight task back into higher peak congestion periods'.²⁵ In late 2019, Toll Group estimated that congestion cost the company \$350 million per year (\$8.20 per vehicle per day) in lost business time costs, extra vehicle operating costs and air pollution costs.²⁶
- 6.23 From its experience in engaging with urban planners, WRF concluded that the teaching of town planning did not consider 'the logistics of supporting and sustaining a community or city'. WRF reported it could not identify regulation that 'defines a road envelope of both width and height that protects as of right heavy vehicles operating in suburban streets'. It recommended that 'consideration should be given to developing a set of national guidelines for town planners regarding road envelopes and other factors required to facilitate the efficient and safe road-based logistics support in metropolitan areas.'²⁷

Connectivity issues

²² CBH Group, *Submission 68*, p. 4.

²³ Department of Infrastructure, Transport, Cities and Regional Development, *Submission 79*, p. 1.

²⁴ Northern Territory Road Transport Association, and Western Roads Federation, *Submission 82*, p. 6.

²⁵ Northern Territory Road Transport Association, and Western Roads Federation, *Submission 82*, p. 6.

²⁶ Toll Group, *Submission 76*, p. 21.

²⁷ Northern Territory Road Transport Association, and Western Roads Federation, *Submission 82*, p. 6.

- 6.24 Sometimes referred to as the first or last mile in a freight task, the connectivity of freight routes through urban areas with ports and other metropolitan locations is an important productivity issue for the industry.
- 6.25 Several submitters raised the need to secure freight networks between agricultural regions and ports from urban encroachment.²⁸ LRTAWA singled out the freight network in Western Australia between Kwinana and the Albany and Brookton Highways as a case in point.²⁹
- 6.26 The Australian Road Transport Industrial Organisation (ARTIO) argued that if there was to be intermodal transport and the building of Inland Rail, planning was required to make it 'connect with the road transport side of things and enable efficient movement of freight from one mode to another mode'. ARTIO proposed the establishment of a formal consultative mechanism to channel the views of 'registered organisations which represent the industrial interests of prime contractors, employers and workers in the industry' to all levels of government.³⁰
- 6.27 Policy issues regarding the access to urban areas for high productivity vehicles are discussed in chapter 7.

Additional Road Safety Infrastructure

- 6.28 ALRTA and Engineers Australia pointed to low-cost, effective safety infrastructure such as rumble strips, wider median strips, wider road shoulders and flashing hazard lights and recommended that governments 'should be implementing these types of specific interventions wherever possible'. ALRTA also emphasised the safety importance of mobile phone infrastructure for drivers in rural and remote areas.³¹
- 6.29 The Victorian Transport Accident Commission (TAC) nominated the provision of protective barriers on the centre-line and along road sides to absorb the energy of colliding vehicles as a priority for the Victorian road network. TAC claimed that this measure had resulted in an 80 per cent reduction in run-off-road and head-on crashes. TAC maintained that '[heavy] vehicle operators stand to be beneficiaries as about one in four [fatalities or serious injuries] from heavy vehicle crashes arise from single-vehicle or head-on crashes'. TAC also noted that tactile centre lines and edge lines had been effective on the Bruce

²⁸ See, for example, NatRoad, *Submission 47*, p. 33; Livestock and Rural Transport Association of Western Australia, *Submission 61*, p. 4.

²⁹ Livestock and Rural Transport Association of Western Australia, *Submission 61*, p. 4.

³⁰ Mr Paul Ryan, National Industrial Adviser, Australian Road Transport Industrial Organisation, *Committee Hansard*, 28 April 2021, p. 13.

³¹ Australian Livestock and Rural Transporters Association, *Submission 12*, p. 18; Mr Scott Elaurant, Member, Engineers Australia, *Committee Hansard*, 29 April 2021, pp. 15, 17.

Highway in Queensland 'where casualty crashes have reduced by approximately 25%'.³²

- 6.30 Despite the reported safety benefits of wire roadside barriers, a number of submitters expressed concerns that when installed too close to the road, heavy vehicle operators had difficulty negotiating entrances and exits and were prevented from making unscheduled roadside stops to change tyres, adjust loads, conduct repairs, or manage fatigue.³³

Rest areas and truck stops

- 6.31 Rest areas and truck stops are essential road infrastructure for heavy vehicle operators, providing amenities for drivers and performing important road safety functions.
- 6.32 Under the Heavy Vehicle National Law (HVNL), drivers are required to rest after driving a maximum number of hours. In addition to allowing drivers to comply with fatigue management requirements, rest areas and truck stops allow drivers to pull over for toilet breaks, check their load, perform repairs such as for blown tyres and check for damage from animal strikes. Livestock transporters need safe accessible places to check animal welfare.
- 6.33 Stakeholders consistently raised concerns with the committee on the inadequate number of formal rest areas and informal truck stops available to drivers and deficiencies in the quality and size of the facilities available.

Formal sites

- 6.34 Mr Rod Hannifey illustrated to the committee how facilities designed specifically for the use of truck drivers by road authorities can nonetheless be unfit for purpose, by providing the following example:

There's a parking bay on the Shepparton road which is designed in the current context of B-doubles, yet to get into that parking bay I have to come in and do a 45-degree angle turn where I have a very small gap on either side of the track. As you swing in, you've got to go out with the first truck, and you've got to have the trailer not hit that one, then your back one cuts in, because as it goes around the corner you have the cutting off. To get into that parking bay is hard. To get out of the bay, you've got to drive over a concrete gutter.³⁴

- 6.35 Inquiry participants suggested a variety of requirements for rest areas that met the needs of heavy vehicle drivers including afternoon shade, distance from road noise and headlights at night, flat ground, adequate parking for all heavy

³² Transport Accident Commission, *Submission 96*, pp. 6, 7. See also Mr Scott Elaurant, Member, Engineers Australia, *Committee Hansard*, 29 April 2021, p. 15.

³³ Livestock and Rural Transporters Association of Victoria, *Submission 62*, p. 3; Roe's Holdings, *Submission 44*, p. 6; Mr Rod Hannifey, *Committee Hansard*, 22 November 2019, p. 10.

³⁴ Mr Rod Hannifey, *Committee Hansard*, 22 November 2019, p. 3.

vehicle sizes including high productivity vehicles, facilities to prepare a meal on the side of the road, toilets, showers, water, rubbish bins and that they be designated for the exclusive use of trucks.

6.36 ALRTA asserted that in rural and regional areas, 'the standard of facilities required at lower tier rest areas in rural and remote Australia is such that basic amenities such as toilets, shade, lighting and rubbish bins are typically completely absent'.³⁵

6.37 Ms Jan Cooper, chief executive officer of the LRTAWA, derided the lack of facilities for drivers on rural freight runs, stating that 'there is no way we are going to attract more women into the industry when there are not even basic facilities'. She continued:

... it's really hard to understand why we treat truck drivers the way we do. We have examples of depots and facilities at the end of a transport route where there is nowhere for drivers to shower or even go to the toilet. We have grain bins where there is nowhere to go. They have to camp there overnight in order to be there for the scheduled appointment time in the morning, but they have no facilities. It defies human understanding.³⁶

6.38 The LRTAWA submitted that the industry was not averse to a user pays system 'if it meant there were suitable and well-maintained facilities'.³⁷

6.39 Ms Michelle Harwood, executive director of the Tasmanian Transport Association, noted that progress had been made in that state on the acceptance of a rest area strategy, allocations of funding and consultations with truck drivers 'as a part of the normal process in design'.³⁸

Rest area deficiencies in specific locations

6.40 Some areas were singled out by stakeholders for the lack of rest or emergency stops for heavy vehicle drivers,³⁹ such as the 41-kilometre Toowoomba Range crossing and the north–south expressways from Pheasants Nest to Wyong via Sydney. The committee was told that the road upgrade to the 40 kilometre

³⁵ Australian Livestock and Rural Transporters Association, *Submission 12*, p. 17.

³⁶ Ms Jan Cooper, Chief Executive Officer, Livestock and Rural Transport Association of Western Australia, *Committee Hansard*, 26 November 2020, p. 19.

³⁷ Livestock & Rural Transport Association of Western Australia, *Submission 61*, p. 4.

³⁸ Ms Michelle Harwood, Executive Director, Tasmanian Transport Association, *Committee Hansard*, 29 April 2021, pp. 62–63.

³⁹ See, for example, Roe's Holdings, *Submission 44*, p. 7; Mr Rod Hannifey, *Submission 45*, p. 3; Mr Gary Mahon, Chief Executive Officer, Queensland Trucking Association, *Committee Hansard*, 24 July 2020, p. 42; Mr Ian Wild, President, Livestock and Rural Transporters Association of Queensland, *Committee Hansard*, 24 July 2020, p. 46; Ms Roxanne Mysko, Chief Executive Officer, United Transport Group, *Committee Hansard*, 25 November 2020, p. 13; Mr Gary Deane-Spread, *Committee Hansard*, 26 November 2020, p. 8.

stretch south of Boggabilla in NSW had resulted in 28 truck spaces being reduced to six.⁴⁰

- 6.41 Other identified problem areas included the Pacific Highway, the gap between Gin Gin and Brisbane on the Bruce Highway and the routes from Brisbane to Gympie, Coolgardie to Southern Cross in South Australia and Wubin to Meekatharra in Western Australia. The committee was also informed that while the Victorian Government had made vast improvements to rest stops along the Hume Highway, there were 'no public toilet facilities anywhere within the port of Melbourne'.⁴¹
- 6.42 In response to issues raised by inquiry participants about facilities in Queensland, the TMR informed the committee that heavy vehicle rest areas were a focus of the \$12.6 billion, 15-year works program for the Bruce Highway between Brisbane and Cairns which commenced in 2013. Regarding the Brisbane to Gympie section, in addition to two shared-use rest areas, a new roadside facility with 20 parking bays for trucks would be operational for heavy vehicle drivers in 2021. The TMR also reported that, while not designated rest areas, there were 22 pullover bays on the Toowoomba Bypass which could be used for driver or vehicle safety issues.⁴²
- 6.43 The TMR further informed the committee that there were 369 combined rest areas (light and heavy vehicles) on the 33,367 kilometre state-controlled road network across Queensland and 21 rest areas for the exclusive use of heavy vehicles. Of the 369 sites, 193 had facilities that included water and an enviro toilet and 221 had permanent shade.⁴³
- 6.44 The TMR also advised the committee that legislative amendments in late 2020 clarified that camping on state-controlled roads is for fatigue management purposes and that heavy vehicle rest areas are for the sole use of fatigue-regulated heavy vehicles. It was expected that improved signage and education would improve compliance.⁴⁴

⁴⁰ Mr Rod Hannifey, President, National Road Freighters Association, *Committee Hansard*, 29 April 2021, p. 39.

⁴¹ Mr Darran McColley, *Committee Hansard*, 19 April, 2021, pp. 22, 23.

⁴² Mr Neil Scales, Director-General, Department of Transport and Main Roads, answers to questions on notice, 24 July 2020 (received 13 August 2020).

⁴³ Mr Andrew Mahon, General Manager, Land Transport Safety and Regulations, Department of Transport and Main Roads, *Committee Hansard*, 24 July 2020, p. 55; Mr Neil Scales, Director-General, Department of Transport and Main Roads, answers to questions on notice, 24 July 2020 (received 13 August 2020); Mr Neil Scales, Director-General, Department of Transport and Main Roads, answers to questions on notice, 24 July 2020 (received 25 September 2020).

⁴⁴ Mr Neil Scales, Director-General, Department of Transport and Main Roads, answers to questions on notice, 24 July 2020 (received 3 November 2020).

Informal sites

6.45 Informal rest areas are unmanaged truck stops used by drivers, largely to make up for a shortfall in formal rest areas. The committee heard that the industry was losing informal parking sites due to town bypasses and perceived safety concerns and that informal stops used by drivers were being closed off with guard rails by road authorities rather than fixing issues such as bogging and potholes.⁴⁵

6.46 Mr Hannifey informed the committee of the genesis of his idea to use green reflectors on guideposts to alert drivers travelling on unfamiliar roads of upcoming places where they can pull over safely:

I was coming home over the Great Western Highway through the Blue Mountains and I was tired; I should not have been on the road. But there were no rest areas, there was nowhere to stop safely. ... As I drove along, I'm thinking, 'Oh, Jesus, look, there's a big bit of dirt—I could've stopped there', but you can't see it; there is no marking for it. And I didn't know the road, so I didn't know whether the next rest area was five kilometres or 50 kilometres.⁴⁶

6.47 To Mr Hannifey, the solution was 'simple, cheap and effective'.⁴⁷ Green reflectors have been installed on the Newell Highway in Queensland, funded by the federal Heavy Vehicle Safety Initiative.⁴⁸ The TMR subsequently informed the committee that it 'fully supports the implementation of 3-2-1 Green Reflectors to assist drivers to locate informal heavy vehicle stopping places' and it is considering new locations that conform to its road management manual.⁴⁹

Municipal and commercial facilities

6.48 Service centres, road houses and local government facilities are also used by heavy vehicle drivers.

6.49 LRTAWA suggested that existing facilities in road houses could be subsidised to provide clean and suitable amenities.⁵⁰ Ms Heather Jones, chief executive officer of the Pilbara Heavy Haulage Girls, was one of several submitters who

⁴⁵ Mr Ron Hannifey, *Committee Hansard*, 22 November 2019, p. 91; Ms Michelle Harwood, Executive Director, Tasmanian Transport Association, *Committee Hansard*, 29 April 2021, p. 62.

⁴⁶ Mr Ron Hannifey, *Committee Hansard*, 22 November 2019, p. 8.

⁴⁷ Mr Ron Hannifey, *Submission 45*, p. 3.

⁴⁸ National Heavy Vehicle Regulator, *Green reflectors*, <https://www.nhvr.gov.au/about-us/safety-campaigns/green-reflectors> (accessed 3 May 2021).

⁴⁹ Mr Neil Scales, Director-General, Queensland Department of Transport and Main Roads, answers to questions on notice, 24 July 2020 (received 25 September 2020).

⁵⁰ Livestock and Rural Transport Association of Western Australia, *Submission 61*, p. 4.

raised the decline in standards at road houses and the difficulty for drivers accessing healthy food. She recalled:

20 or 30 years ago, we'd pull into roadhouses and we would know the people there serving us ... If you'd been on the road for hours or days or weeks, you'd sit down and you'd know Sally or Mary, and she'd ask you about your family and serve you some good, healthy steak and veggies. Now we have all of these service stations owned by multinationals where you can buy a pie, a pasty, a sausage roll or a stinky doughnut, which then contributes to fatigue.⁵¹

6.50 Mr Frank Black observed that rest areas frequently do not exist in metropolitan areas and suggested that they be provided on the outskirts of cities.⁵² Ms Harwood of the Tasmanian Transport Association reported that there had been challenges in getting upgrades to existing rest areas in Tasmania due to residential development close to the highway and a view that facilities should be located out of town.⁵³

6.51 Driver Mr Gary Deane-Spread emphasised that truck driving was dirty work and that loading and unloading facilities needed to reflect that:

... a lot of the sites that we deliver to, not only myself but other companies and other drivers, you can spend four or five hours in the heat and dirt and dust unloading, unstrapping, untying and reloading, and get to the gatehouse and there's not even facilities to wash your hands, let alone have a clean up, use the toilet, have a shower.⁵⁴

National standards for rest areas

6.52 In July 2019 Austroads, a not-for-profit organisation funded by Australian and New Zealand transport agencies, published revised guidelines for road managers to assist them to plan and design heavy vehicle rest areas. The guidelines replaced an earlier version created by the National Transport Commission in 2005.⁵⁵

6.53 The new guidelines assist road managers to assess and prioritise heavy vehicle rest areas and specify the services that should be provided in different classes of rest area. Under the guidelines, major sites (class 1 and 2 rest areas) should

⁵¹ Ms Heather Jones, Chief Executive Officer, Pilbara Heavy Haulage Girls, *Committee Hansard*, 26 November 2020, p. 57. See also Mr Glen Stutsel, *Submission 39*, p. 1; Mr Frank Black, *Submission 54*, p. 1; Trucking Support Agency of Australia, *Submission 114*, p. 6.

⁵² Mr Frank Black, *Submission 54*, p. 4.

⁵³ Ms Michelle Harwood, Executive Director, Tasmanian Transport Association, *Committee Hansard*, 29 April 2021, pp. 62–63.

⁵⁴ Mr Gary Deane-Spread, *Committee Hansard*, 26 November 2020, p. 8. See also, Ms Heather Jones, Chief Executive Officer, Pilbara Heavy Haulage Girls, *Committee Hansard*, 26 November 2020, p. 58.

⁵⁵ Austroads, *Guidelines for the provision of heavy vehicle rest area facilities*, July 2019, <https://austroads.com.au/publications/freight/ap-r591-19> (accessed 24 March 2021), p. 2.

be 70–100 kilometres apart; sites suitable for sleep (class 3 and 4 rest areas) should be 35–50 kilometres apart, and informal sites (class 5 rest areas) should be 15–25 kilometres apart.⁵⁶

- 6.54 Mr Hannifey called for the adoption of a national rest area strategy and a national road standard to enforce the number, frequency, size and facilities of rest areas on national highways and for new road projects.⁵⁷
- 6.55 Mr Geoff Allan, chief executive of Austroads, told the committee that 'most, if not all, jurisdictions generally have an intent to deliver on the guidelines'.⁵⁸

Federal funding

- 6.56 The provision and management of rest areas is a shared government responsibility, with state governments having primary responsibility for submitting proposals and delivering projects and the federal government contributing funding to rest areas on national corridors and major freight routes.⁵⁹
- 6.57 ALRTA expressed concern that the federal government was underspending on funding allocated to rest areas in the federal budget⁶⁰ while Toll Group submitted that the government should upgrade rest stops along major freight routes as an 'immediate priority'.⁶¹
- 6.58 The Australian Trucking Association (ATA) submitted that infrastructure projects that improve the productivity and safety of heavy vehicle operations in Australia are funded by the Australian Government through the Heavy Vehicle Safety and Productivity Program (HVSPP).⁶² According to the ATA, rest areas on the National Land Transport Network, which constitutes 'Australia's busiest and most important freight corridors', were not eligible for funding. ATA recommended that guidelines for future rounds of the HVSPP allow National Land Transport Network rest areas to be funded and should

⁵⁶ Mr Ron Hannifey, *Committee Hansard*, 22 November 2019, p. 2.

⁵⁷ Mr Rod Hannifey, *Submission 45*, p. 3.

⁵⁸ Mr Geoff Allan, Chief Executive, Austroads, *Committee Hansard*, 29 April 2021, p. 51.

⁵⁹ Mr Andrew Mahon, General Manager, Land Transport Safety and Regulations, Department of Transport and Main Roads, *Committee Hansard*, 24 July 2020, p. 55; Ms Christine Dacey, Deputy Secretary, Transport Group, Department of Infrastructure, Transport, Regional Development and Communications, *Committee Hansard*, 29 April 2021, p. 54.

⁶⁰ Australian Livestock and Rural Transporters Association, *Submission 12*, p. 17.

⁶¹ Toll Group, *Submission 76*, pp. 14, 15.

⁶² Department of Infrastructure, Transport, Regional Development and Communications, *Heavy Vehicle Safety and Productivity Program*, <https://investment.infrastructure.gov.au/infrastructure-investment/heavy-vehicle-safety-and-productivity.aspx> (accessed 24 March 2021).

'require all projects funded under the program to meet the requirements of the Austroads heavy vehicle rest area guidelines'.⁶³

6.59 Mr Philip Smith, first assistant secretary in the Infrastructure Investment Division of the Department of Infrastructure, Transport, Regional Development and Communications (the department) explained that rest areas and truck stops received federal funding under 'a variety of different packages' and that there was 'no impediment under our funding mechanisms for those to be built in as roads are designed'.⁶⁴

6.60 Ms Gabby O'Neill, assistant secretary in the Office of Road Safety, added that projects under the Road Safety Program included the provision of truck rest stops, 'particularly in the very remote areas, and we're making sure that they're to the Austroads standards'. Ms O'Neill stated that there was more work to be done to identify the location of gaps in the road network.⁶⁵

6.61 Dr Louise Rawlings, assistant secretary in the Bureau of Infrastructure and Transport Research Economics (BITRE), told the committee that as a 'first step', work was being done to map national rest stops online as part of the National Freight Data Hub.⁶⁶ Data were being used to identify 'not only where trucks stop but also where trucks are not stopping ... and where there are long distances between those stops'.⁶⁷ Mr Smith added:

This data would obviously be invaluable from the planning and freight side of things. We then work with the states, work up proposals and put those proposals through to government for consideration through their normal budgetary processes.⁶⁸

6.62 Toll Group agreed that the Australian Government should use telematics data to 'prioritise underserved truck rest stops in Australia for targeted funding'.⁶⁹

⁶³ Australian Trucking Association, *Submission 91*, p. 4.

⁶⁴ Mr Philip Smith, First Assistant Secretary, Department of Infrastructure, Transport, Regional Development and Communications, *Committee Hansard*, 29 April 2021, p. 54.

⁶⁵ Ms Gabby O'Neill, Assistant Secretary, Office of Road Safety, Surface Transport Policy Division, Department of Infrastructure, Transport, Regional Development and Communications, *Committee Hansard*, 29 April 2021, pp. 54–55.

⁶⁶ Dr Louise Rawlings, Assistant Secretary, Bureau of Infrastructure and Transport Research Economics, Department of Infrastructure, Transport, Regional Development and Communications, *Committee Hansard*, 29 April 2021, p. 55.

⁶⁷ Ms Maree Bridger, First Assistant Secretary, Surface Transport Division, Department of Infrastructure, Transport, Regional Development and Communications, *Committee Hansard*, 29 April 2021, p. 56.

⁶⁸ Mr Philip Smith, First Assistant Secretary, Department of Infrastructure, Transport, Regional Development and Communications, *Committee Hansard*, 29 April 2021, p. 56.

⁶⁹ Toll Group, *Submission 76*, pp. 14, 15.

Rural transport infrastructure

Effluent disposal facilities

- 6.63 The need for roadside facilities to dispose of effluent generated by livestock in transit was highlighted by rural transport associations and beef exporters.
- 6.64 Effluent control is important to avoid motorcycle hazards on roadways, contamination of waterways, transmission of infectious diseases and injury to animals in transit from slips and falls. Effluent control is also an issue for travel to urbanised areas and ports. ALRTA estimated that a trailer deck of 40 cattle can produce up to 1200 kilograms or litres of effluent, far in excess of standard 300 litre truck effluent tanks. The committee was also told that such tanks are 'not mandatory or even common in most parts of Australia'⁷⁰ and that instead effluent is washed from trailers at truck wash bays, often at abattoirs.⁷¹
- 6.65 Unlike countries such as New Zealand, the committee was told that Australia lacked a network of strategically placed facilities to effectively support livestock transportation.⁷² Furthermore, 'livestock processing facilities are not required to provide dumping areas, primary producers are reluctant to accept it onto their property and it may not be deposited in public places'.⁷³ While the Australian Government had committed funds for a pilot roadside effluent disposal facility and to develop a code of practice, there had been limited success in constructing disposal facilities.⁷⁴
- 6.66 Mr Graeme Howell, secretary of the Livestock and Rural Transporters Association of Victoria, informed the committee that, depending on existing onsite infrastructure, a dump at saleyards might cost \$50 000 while a roadside dump could range from \$250 000 to several million dollars. In his view, 'there should be an effluent dump within 20, 30 or 40 kays on each major road coming into the city and on each side of major towns'.⁷⁵
- 6.67 ALRTA submitted that it was working with the National Transport Commission to compel livestock producers to adopt feeding practices that

⁷⁰ Australian Livestock and Rural Transporters Association, *Submission 12*, pp. 14, 15.

⁷¹ Livestock and Rural Transporters Association of Victoria, *Submission 62*, p. 3; Mr Ian Wild and Mr Mark Collins, Livestock and Rural Transporters Association of Queensland, *Committee Hansard*, 24 July 2020, p. 47.

⁷² Livestock and Rural Transporters Association of Victoria, *Submission 62*, pp. 2–3; Australian Livestock and Rural Transporters Association, *Submission 12*, p. 16.

⁷³ Australian Livestock and Rural Transporters Association, *Submission 12*, p. 15.

⁷⁴ 'It's a dirty job, but someone's got to do it', *Power Torque*, <https://powertorque.com.au/its-a-dirty-job-but-someones-got-to-do-it/> (accessed 25 March 2021); Mr Graeme Howell, Secretary, Livestock and Rural Transporters Association of Victoria, *Committee Hansard*, 19 April 2021, p. 40.

⁷⁵ Mr Graeme Howell, Secretary, Livestock and Rural Transporters Association of Victoria, *Committee Hansard*, 19 April 2021, p. 40.

reduce the production of effluent during transportation. ALRTA recommended that the Australian Government identify key livestock freight routes and develop funding principles and regional plans with a view to establishing a network of managed sites in strategic locations.⁷⁶

- 6.68 Organic beef exporting company Obe Organic submitted that any new effluent stops should offer 'ablution facilities for drivers including female drivers'.⁷⁷ The provision of toilets and showers at 'all sites we work at' was considered a basic requirement by the Livestock and Rural Transporters' Association of Victoria.⁷⁸

Loading and unloading ramps

- 6.69 The work health and safety implications of transport workers needing to use livestock loading and unloading infrastructure located at saleyards, farms, feedlots and other sites was raised by livestock associations.⁷⁹
- 6.70 Of specific concern was injuries and deaths caused by aging and inadequate infrastructure. A survey of 94 ALRTA members conducted in March 2021 found '87 per cent had experienced operator or staff injury in the past five years, 69 per cent had experienced near misses regularly or often and 80 per cent considered that reporting injuries or unsafe facilities would have a detrimental impact on work or repeat business'. Only four per cent of incidents were reported to work health and safety authorities.⁸⁰
- 6.71 Safe Work Australia reported that it did not have a specific category for injuries sustained while loading or unloading a vehicle in statistics compiled for the National Data Set for Compensation-based Statistics. However, its workers' compensation data showed that 312 claims had been made between 2009–10 and 2018–19 in the road transport industry for injuries from livestock.⁸¹
- 6.72 ALRTA reported on the industry's involvement in the production of a national standard for ramps published by Standards Australia in late 2020.⁸² ALRTA

⁷⁶ Australian Livestock and Rural Transporters Association, *Submission 12*, p. 16.

⁷⁷ Obe Organic, *Submission 56*, p. 2.

⁷⁸ Livestock and Rural Transporters Association Victoria, *Submission 62*, p. 5.

⁷⁹ Mr Graeme Howell, Secretary, Livestock and Rural Transporters Association of Victoria, *Committee Hansard*, 19 April 2021, p. 41; Mr Mat Munro, Executive Director, Australian Livestock and Rural Transporters Association, *Committee Hansard*, 28 April 2021, pp. 38–41.

⁸⁰ Mr Mat Munro, Executive Director, Australian Livestock and Rural Transporters Association, *Committee Hansard*, 28 April 2021, pp. 38, 41.

⁸¹ Safe Work Australia, answers to questions on notice, 28 April 2021, (received 11 May 2021), pp. 6–7. The figures included 'horses, donkeys, mules, cows, steers, cattle, bulls, buffalo, sheep, pigs, goats and other and not specified four-legged animals'.

⁸² Australian Standard AS 5340:2020 Livestock loading and unloading ramps and forcing pens.

executive director, Mr Mat Munro, said that the \$139 cost of the standard and copyright licence requirements imposed by Standards Australia were inhibiting the ability of ALRTA to publicise the requirements in the standard, even among its own members. ALRTA argued that there was a need for accessible information for farmers and producers on the standard to improve the safety of the ramps.⁸³

- 6.73 Representatives from Safe Work Australia confirmed that persons conducting an agricultural business have the same duties in relation to managing and identifying work health and safety risks as any other employer. It also pointed out that transport companies could also have duties of care to ensure safe systems for workers in this instance.⁸⁴

Heavy vehicle amenities

- 6.74 A number of stakeholders shared the view that amenities for drivers in heavy vehicles were inadequate and detrimental to efforts to combat driver fatigue. Drivers suggested that fridges, microwaves, chemical toilets, showers and slide outs along the lines of those used in motor homes could be introduced into the Australian long distance fleet. The principal concerns of stakeholders, however, was the minimum size of driver sleeper berths and the need for air conditioning.⁸⁵

Sleeper berths

- 6.75 The Australian Design Rules (ADRs) are national vehicle standards for safety, anti-theft and emissions which are administered by the Australian Government under the *Motor Vehicle Standards Act 1989* and *Road Vehicle Standards Act 2018*. All road vehicles are required to comply with the ADRs at the time of manufacture and supply to the Australian market.⁸⁶

⁸³ Mr Mat Munro, Executive Director, Australian Livestock and Rural Transporters Association, *Committee Hansard*, 28 April 2021, pp. 38–40.

⁸⁴ Ms Meredith Bryant, Branch Manager, Evidence and Strategic Policy Branch, Safe Work Australia, *Committee Hansard*, 28 April 2021, p. 53; Mr William Smith, Director, High Risk Work and Construction Policy, Safe Work Australia, *Committee Hansard*, 28 April 2021, p. 54.

⁸⁵ See, for example, Mr Steven Corcoran, *Submission 14*, pp. 7–8; Mr Jerry Brown-Sarre, *Submission 9*, p. 21; Mr Alan Byron, *Submission 29*, p. 1; HPS Transport, *Submission 59*, p. 5; Name withheld, *Submission 93*, p. 3; Mr Jason Phillips, *Submission 102*, p. 3; Mr Mike Williams, *Submission 104*, p. 8; Mr Gordon Mackinlay, President, National Road Freighters Association, *Committee Hansard*, 22 November 2019, pp. 20–21; Mr Glenn Kendall, Owner-operator, Kendall Trucking and Co, *Committee Hansard*, 26 November 2020, p. 35; Mr Mike Williams, *Committee Hansard*, 9 February 2021, pp. 12–13; Ms Roxanne Mysko, Chief Executive Officer, United Transport Group, *Committee Hansard*, 9 February 2021, p. 37.

⁸⁶ Department of Infrastructure, Transport, Regional Development and Communication, Australian Design Rules, <https://www.infrastructure.gov.au/vehicles/design/> (accessed 24 May 2021).

- 6.76 The ADRs specify the minimum dimensions of sleeper berths as 1900 mm length x 530 mm width and 630 mm depth, with some allowance for the tapering or rounding of the sleeping space.⁸⁷
- 6.77 Drivers and the ATA argued that the minimum sleeper berth sizes in Australia were too small to ensure driver comfort and sleep quality and that heavy vehicles in countries such as the United States had superior living quarters.⁸⁸ Mr Steven Corcoran recommended increasing the minimum sleeper berth dimensions in the ADRs to 1900 mm x 1000 mm x 1200 mm.⁸⁹ Mr Mike Williams told the committee that increasing the sleeper berth in his 909 Kenworth truck from 50 inches to 72 inches would allow him to fit a chemical toilet behind the seat.⁹⁰ The ATA proposed 'a regulatory incentive to encourage the installation of sleeper cabs up to 1.3 metres wide'.⁹¹
- 6.78 Drivers were also concerned about the inclusion of the driver sleeper berths in the maximum allowable measurements of the dimensions of heavy vehicles. Mr Jerry Brown-Sarre argued for 'the measurement from front of bull to centre of turntable (fifth wheel) to be excluded from total length law'.⁹² By excluding the sleeper berth from the total allowable length dimensions, Mr Brown-Sarre and other drivers argued, owners will not need to trade off driver amenities for increased freight capacity.
- 6.79 Mr Mike Williams argued that vehicle weight laws should take driver amenities into consideration, and drew on examples from overseas:
- I'm after a realistic weight on a steer axle which will allow for these bigger cabs. Now, there are trucks manufactured in Europe, the Scania Xer is an example of this, with a nine-tonne axle on them that have a 7.5-tonne weight on the steer, which, as we speak, is over the allowed limit. That particular truck, if you care to have a look at it, did appear at the Brisbane Truck Show several years ago, and everyone loved it. But no one can order it, because it can't meet the Australian standard.⁹³
- 6.80 Vehicle dimensions are also specified in the in-service mass, dimension and loading regulations overseen by the NHVR or the Western Australian or

⁸⁷ Vehicle Standard (Australian Design Rule 42/05—General Safety Requirements) 2018.

⁸⁸ Mr Trevor Warner, Submission 30, p. 3; Mr John Mitchell, Chief Executive Officer, Mitchell's Livestock Transport, *Committee Hansard*, 29 April 2021, p. 28.

⁸⁹ Mr Steven Corcoran, *Submission 14*, pp. 7–8.

⁹⁰ Mr Mike Williams, *Committee Hansard*, 9 February 2021, p. 13.

⁹¹ Mr Andrew McKellar, Chief Executive Officer, Australian Trucking Association, *Committee Hansard*, 28 April 2021, p. 22.

⁹² Mr Jerry Brown-Sarre, *Submission 9*, p. 21.

⁹³ Mr Mike Williams, *Committee Hansard*, 9 February 2021, p. 16.

Northern Territory governments.⁹⁴ Mr Sal Petrocchio, Chief Executive Officer of the NHVR, informed the committee that while regulations limit the overall dimensions of prime movers and combinations, there are 'no specific regulations that limit or restrict the size of a truck cabin or sleeper compartment'. Rather, it is a matter for the vehicle operators and manufacturers 'to optimise the use of space (dimension) and mass that is available under regulations to carry the necessary fuel, driver and vehicle features and provide enough space to connect a trailer'.⁹⁵

- 6.81 Mr Petrocchio acknowledged that proposals had arisen during the review of the HVNL to increase lengths for some vehicles to allow for larger sleeper cabins and that the NHVR supported this in principle for its 'potential benefits in terms of safety and driver wellbeing'.⁹⁶ Ms Paula Stagg, assistant secretary in the Land Transport Policy Branch of the department, told the committee that the proposal was considered by the Infrastructure and Transport Ministers' Meeting in May 2021. If changes were allowed under the ADRs, it would be a marketing decision from truck manufacturers on whether demand warranted the supply of trucks with larger cabins to the market.⁹⁷

Air conditioning

- 6.82 The ADRs require that sleeper berths have 'proper ventilation', but do not specify a requirement for air conditioning.⁹⁸
- 6.83 A number of drivers argued that all long-distance vehicles should be fitted with sleeper cab air conditioning that operates independently from the main engine.⁹⁹ It was also pointed out that evaporative type coolers were ineffective in humid heat.
- 6.84 Mr Corcoran reported that the WA Commission for Occupational Safety and Health produced a code of practice on fatigue management for commercial vehicle drivers which specified air conditioning for operations north of the 26th parallel between 1 October and 31 March.¹⁰⁰

⁹⁴ Mr Sal Petrocchio, Chief Executive Officer, National Heavy Vehicle Regulator, correspondence received 22 February 2021.

⁹⁵ Mr Sal Petrocchio, Chief Executive Officer, National Heavy Vehicle Regulator, correspondence received 22 February 2021.

⁹⁶ Mr Sal Petrocchio, Chief Executive Officer, National Heavy Vehicle Regulator, correspondence received 22 February 2021.

⁹⁷ Ms Paula Stagg, Assistant Secretary, Land Transport Policy Branch, Department of Infrastructure, Transport, Regional Development and Communications, *Committee Hansard*, 29 April 2021, p. 59.

⁹⁸ Vehicle Standard (Australian Design Rule 42/05—General Safety Requirements) 2018.

⁹⁹ Mr Jerry Brown-Sarre, *Submission 9*, p. 21.

¹⁰⁰ Mr Steven Corcoran, *Submission 14*, pp. 7–8; Western Australia Department of Mines, Industry Regulation and Safety, Code of practice—Fatigue management for commercial vehicle drivers,

Chapter 7

Other considerations

- 7.1 This chapter considers other key issues discussed during the course of the committee's inquiry. One prominent theme raised by various stakeholders in the road transport sector was the role and future of new technologies as a means to improve safety and productivity. Overall, there was a high level of support for such technologies, particularly for addressing fatigue. However, the committee heard of a number of concerns regarding the integration of new technology into the road transport sector, such as the cost impost on operators and privacy concerns. This chapter considers the use of high productivity vehicles that maximise freight productivity, environmental performance and safety, and the future of automation.
- 7.2 The operation and viability of the cash-in-transit transport sector was also explored during the inquiry and is covered in this chapter. In particular, the importance of establishing industry standards and the application of consistent, liveable award wages across the sector.
- 7.3 Finally, the chapter considers the road transport sector's calls for a federal Minister for Transport to act as a conduit for the facilitation and implementation of the necessary changes identified in this report, as well as providing an avenue for ongoing advocacy and national coordination of the industry as a whole.

New technologies

- 7.4 New technologies have the potential to increase the safety and productivity of the road transport industry and improve its environmental footprint. However, inherent features of the industry have resulted in a relatively slow take-up of technologies.
- 7.5 Owner-drivers and small businesses, which numerically dominate the industry, in many cases do not have the resources to invest in emerging technologies. Toll Group observed that governments, mindful of the impost on small businesses, have delayed decisions to mandate the adoption of technologies, even when 'benefits clearly outweigh costs'. The impact of this, according to Toll Group, is:

Firstly, good operators who invest in new technologies are penalised as they are often undercut on price by those who don't invest in safety, and secondly the social licence for the industry to operate is eroded through the public's perception of aged, dangerous trucks.¹

¹ Toll Group, *Submission 76*, p. 16.

- 7.6 The Truck Industry Council (TIC), the peak body representing manufacturers and distributors of heavy vehicles, concluded that the time had come to act with regards to the environmental impacts of the industry:

Australia is at a point in time where there is justifiable public concern regarding the need for Government to take action to improve road safety outcomes and to minimise the adverse health effects to Australians from vehicular pollution by reducing greenhouse gas (GHG) and noxious emissions.²

- 7.7 TIC submitted that with an average truck age of 14.8 years, the 'undeniable truth is that Australia has an old truck fleet', which does not utilise the 'new era of safety features such as Electronic Stability Control, Autonomous Emergency Braking Systems and Lane Keep Assist Systems'. Furthermore, TIC contended that 42 per cent of the fleet lacked 'any modern truck safety features' such as anti-lock braking or stability control or even emission controls.³ The Australian Trucking Association told the committee that it was working with the federal infrastructure department 'to adapt international standards for the Australian trailer fleet'.⁴
- 7.8 Mr Peter Anderson, chief executive officer of the Victorian Transport Association, contended that while the technological innovation in new heavy vehicles was 'outstanding', safety features were used by manufacturers as ephemeral 'marketing leverage' rather than promoting industry safety standards.⁵
- 7.9 Similarly, Engineers Australia, noting that 'you can get five-star rated vehicles in virtually every category of the market' asked 'once you accept that a vehicle is a workplace and a road is a workplace—and by law it is in almost all states—why do we permit employers to send someone out in a two- or three-star rated vehicle if a five-star rated one is available in the same price category?'⁶
- 7.10 The Transport Accident Commission and the Royal Australasian College of Surgeons submitted that the delay between a proven safety technology being available in the marketplace and becoming mandated by the Australian Design Rules was 'unacceptable'.⁷ The Transport Accident Commission noted that

² Truck Industry Council, *Submission 74*, p. 2.

³ Truck Industry Council, *Submission 74*, p. 3.

⁴ Mr Andrew McKellar, Chief Executive Officer, Australian Trucking Association, *Committee Hansard*, 28 April 2021, p. 21.

⁵ Mr Peter Anderson, Chief Executive Officer, Victorian Transport Association, *Committee Hansard*, 19 April 2021, p. 3.

⁶ Mr Scott Elaurant, Member, Engineers Australia, *Committee Hansard*, 29 April 2021, p. 17.

⁷ Transport Accident Commission, *Submission 96*, p. 11; Royal Australasian College of Surgeons, *Submission 38*, p. 1.

technologies to be mandated for trucks in EU countries in 2021 included fatigue and distraction warnings, speed limit compliance devices, reversing sensors, accident data recorders and devices to remove blind spots and detect and warn of vulnerable road users.⁸

- 7.11 Mr Adam Gosling advocated the use of real time tyre inflation pressure monitoring systems, noting that there were no legislative requirements regarding heavy vehicle tyre inflation, 'even for the high performance PBS trucks'.⁹
- 7.12 Linfox called for Australian government 'support and pathways for the development and commercialisation of these technologies to help manufacturers and fuel suppliers be ready and viably roll out these solutions'.¹⁰
- 7.13 Inquiry participants principally provided comment on two aspects of new technologies in the road transport industry, telematics (and fatigue monitoring in particular) and high productivity vehicles. Discussion of electronic work diaries can be found in Chapter 4.

Telematics

- 7.14 Telematics is the transmission of computerised information about a vehicle (for a vehicle fleet) over long distances. In the road transport industry telematics can be used to produce accurate road usage information to assist governments and road managers to understand traffic volumes, freight movements and vehicle stop locations and inform policy and investment decisions. Road authorities can use telematics technology as an investigative tool for chain of responsibility or to monitor the use of restricted access networks. Telematics can be used by companies to promote safety through monitoring driver speed and fatigue and to identify business inefficiencies.
- 7.15 The committee was informed of a number of applications of the technologies for the road transport industry. The Australian Logistics Council advised the committee that for around \$2500, hardware can be obtained that provides:
- compliance with NHVAS mass, maintenance and fatigue modules;
 - electronic work diaries and electronic fit for duty declarations;
 - integration with on board weighing systems, electronic braking systems, transport/freight management systems, distraction monitoring services and cameras;

⁸ Transport Accident Commission, *Submission 96*, p. 12.

⁹ Mr Adam Gosling, Director, TyreSafe Australia, *Committee Hansard*, 26 November 2020, p. 27.

¹⁰ Mr Mark Mazurek, Chief Executive Officer, Linfox Logistics Australia and New Zealand, *Committee Hansard*, 19 April 2021, p. 55.

- applications to calculate fuel tax credits, location and speed monitoring services, trailer tracking and driver navigation services; and
 - assistance in fuel management and the production of engine information.¹¹
- 7.16 Toll Group submitted that it had introduced a 'back to base' speed monitoring system in 2013 and that after the first three years of operation, 'the percentage of vehicles recording moderate speeding events fell from 23.23 per cent down to 6.55 per cent'.¹²
- 7.17 Mr Adam Woltanski, Director of Pacific Telematics, described the use of telematics to monitor trailers in real time, including load and lateral movement. The technology has the potential to predict rollovers, map and warn drivers of hazards and assist in accident investigations and has found particular applications in the logging industry.¹³
- 7.18 Mr McCrone, secretary of Victorian Tippers United, suggested that telematics could play a part in helping drivers that are payed hourly to establish the exact time required to undergo a task and therefore ensure proper payment:
- Our members have got no issue, if they're being paid properly, with installing telematics systems in their trucks so they're being tracked. It's not our preferred solution, but, if it comes to that and we're being paid properly, we've got no problem with that. In fact, in some ways it might help us. You might get back from a job and they have a go at you: 'Why did you take so long?' You might say the traffic was such and such, and there was a problem at the tip. If you're on GPS, you can say, 'Look. Here I was, parked up at the tip, waiting to get unloaded.'¹⁴
- 7.19 The Queensland Trucking Association pointed to some technologies that in its view could improve freight operations including:
- real time traffic information communication to GPS services and UHF radio;
 - installation of UHF cut-in systems on locomotives to enhance level crossing safety by broadcasting warning to motorists;
 - freight priority systems to improve all traffic flow; and
 - warning systems for heavy vehicles in high risk situations.¹⁵
- 7.20 In July 2018 the National Transport Commission published its review of heavy vehicle telematics in which it observed that despite the advantages of the technologies, uptake was low. It suggested that the adoption of technologies could be accelerated through awareness campaigns, fast tracking of

¹¹ Australian Logistics Council, *A national operating standard for heavy vehicle operators*, January 2021, additional information received 27 April 2021, p. 9.

¹² Toll Group, *Submission 76*, p. 18.

¹³ Mr Adam Woltanski, Director, Pacific Telematics, *Committee Hansard*, 19 April 2021, pp. 43–48.

¹⁴ Mr Luke McCrone, Secretary, Victorian Tippers United, *Committee Hansard*, 20 April 2021, p. 15.

¹⁵ Queensland Trucking Association, *Submission 69*, p. 10.

technologies into vehicle standards, updating government fleets, technology trials and a range of regulatory and productivity financial incentives.¹⁶

- 7.21 The Queensland Trucking Association argued that due to the cost burden on operators with tight margins, the market should decide when application of the technology was appropriate.¹⁷
- 7.22 Australian Industry Standards, the Australian Logistics Council (ALC) and Toll Group advocated in favour of the mandatory uptake of telematics on the grounds of safety and competitive neutrality.¹⁸ Toll argued that mandatory telematics achieved a level playing field in that all operators must recoup the money invested from customers through higher prices. It added that 'responsible operators do not overload vehicles, run without permits or flout speed and fatigue regulations, leaving them at a competitive disadvantage'.¹⁹
- 7.23 ALC further argued for the standardisation and sharing of data collected, specifically standards to 'track and trace freight through the supply chain'. ALC alerted the committee to the National Location Register pilot program of the National Freight Data Hub which shared locations of truck rest areas, roadhouses and toilet facilities as well as a range of other facilities such as warehouses and distribution centres.²⁰

Fatigue monitoring

- 7.24 Fatigue monitoring technology allows employers to actively manage and support the condition of drivers on the road. Mr Scott Finemore, general manager of Ron Finemore Transport, described the operation of the technology to the committee:

It's a machine that is fitted in the cab of the truck where the driver sits. It uses infrared technology based on algorithms to measure the driver's face movements. If the face movements identify fatigue and/or distraction ... it sends off an alarm ... and the seat vibrates. That alerts the driver that he's had an event. The camera engages and that gets sent to the monitoring centre. The monitoring centre identify, based on the algorithm and the

¹⁶ National Transport Commission, *Review of best practice for heavy vehicle telematics and other road safety technology: Research paper*, July 2018, pp. 1, 35.

¹⁷ Queensland Trucking Association, *Submission 69*, p. 10.

¹⁸ Australian Industry Standards, *Submission 37*, p. 3; Toll Group, *Submission 76*, p. 17; Australian Logistics Council, *Submission 63*, pp 2, 14.

¹⁹ Toll Group, *Submission 76*, p. 17.

²⁰ Ms Rachel Smith, Director, Policy and Advocacy, Australian Logistics Council, *Committee Hansard*, 28 April 2021, pp. 48–50; Department of Infrastructure, Transport, Regional Development and Communications, *The National Freight Data Hub*, www.infrastructure.gov.au/transport/freight/national-freight-data-hub/index.aspx (accessed 6 May 2021).

length of time, whether the driver has had an event [and an] email automatically gets sent to our operations centre.²¹

- 7.25 The transport operator is then able to contact and query the driver to ascertain if the driver can continue.
- 7.26 The National Transport Commission, in its review of heavy vehicle telematics, found that 'fatigue and drowsiness detection devices may prevent between four and 10 per cent of fatal crashes, reduce the severity of injuries and achieve cost savings up to \$28 million'.²²
- 7.27 Inquiry participants were generally enthusiastic about the adoption of fatigue monitoring technology.²³ To Mr Scott Finemore it was 'a huge and positive game changer in improving fatigue management and road safety'.²⁴ Mr Gary Mahon, chief executive officer of the Queensland Trucking Association, described it as a 'silver bullet' and equated the magnitude of its adoption for road safety alongside random breath testing and speed cameras.²⁵
- 7.28 The advantages of seeing-eye machines over prescriptive logbook diary systems were manifest to Mr Mark Collins, vice president of the Livestock and Rural Transporters Association of Queensland:

Obviously, that technology has got to be proven, in my opinion, to make sure that it is reliable and is doing the job it says it's doing. But, initially, with fatigue, we all know you can come back to work after a couple of weeks off and be fatigued in the first two hours of work sitting behind the wheel. A work docket is not going to tell you to pull up at that point, whereas a seeing machine will give you an alert to say that you have a fatigue episode going on.²⁶

- 7.29 The unexpected nature of fatigue was verified by the experience of Toll Group, which reported that after installing over 1400 Driver State Sensing (DSS) devices in its heavy vehicle fleet:

Toll's data suggests that most of our fatigue-related incidents happen in the early part of the journey, or early part of a particular leg of the

²¹ Mr Scott Finemore, General Manager, Ron Finemore Transport, *Committee Hansard*, 22 November 2019, p. 63.

²² National Transport Commission, *Review of best practice for heavy vehicle telematics and other road safety technology: Research paper*, July 2018, p. 1.

²³ See, for example, Mr Steven Corcoran, *Committee Hansard*, 24 July 2020, p. 24.

²⁴ Mr Scott Finemore, General Manager, Ron Finemore Transport, *Committee Hansard*, 22 November 2019, p. 60.

²⁵ Mr Gary Mahon, Chief Executive Officer, Queensland Trucking Association, *Committee Hansard*, 24 July 2020, p. 34.

²⁶ Mr Mark Collins, Vice President, Livestock and Rural Transporters Association of Queensland, *Committee Hansard*, 24 July 2020, p. 52.

journey. This runs counter to many long-held views in the industry and questions whether our 'fitness for duty' standards are enough.²⁷

7.30 Toll reported that in-cab warnings had 'resulted in a 66 per cent reduction in fatigue events, however when this was combined with real-time provision of direct feedback a 95 per cent reduction was achieved'. Since implementing the DSS system there have been no truck rollovers in its line haul business.²⁸

7.31 In a note of caution, the Transport Workers' Union asserted that using technological solutions to detect fatigue could not be a substitute for addressing factors that caused transport workers to drive while tired:

An excessive reliance on technologies to improve safety is in turn detracting from the key determinants (rates, work pressure and contracting practices) of poor safety outcomes in the transport sector and leading to misguided safety management practices. Indeed, technology gives the illusion that the problem of fatigue is being addressed when in reality it can be entirely ignored.²⁹

7.32 Several witnesses were uncomfortable with the surveillance aspect of the in-vehicle cameras used for fatigue management. To driver Mr Kelvin Cootes, cameras were 'a straight-out breach of privacy' and 'a workplace bullying tool for the employees'.³⁰ Mr Tim Dawson, secretary of the WA branch of the Transport Workers' Union suggested:

There needs to be some sort of code of conduct in Australia about how these companies use these cameras—or change legislation; one of the two. This telematics and technology in trucks are no doubt making the transport industry safer; I'm not saying it doesn't; but we need to make sure that it's either used for training or safety, not for disciplinary'.³¹

7.33 Mr Woltanski stated that in order to increase acceptance of telematics technologies, they should be used to reward good behaviour rather than to punish drivers. Drivers also needed to be made aware that the technology would ultimately be there to protect them.³²

7.34 Driver Mr Kean Austin saw an advantage in fatigue monitoring technology in increasing flexibility for driver fatigue management. For example, where a driver had 20 minutes left on their logbook but wanted to stop in a roadhouse

²⁷ Toll Group, *Submission 76*, p. 18.

²⁸ Toll Group, *Submission 76*, p. 18.

²⁹ Transport Workers' Union of Australia, *Submission 126*, p. 20.

³⁰ Mr Kelvin Cootes, *Committee Hansard*, 26 November 2020, p. 3. See also Mr Glenn Kendall, Owner-operator, Kendall Trucking and Co, *Committee Hansard*, 26 November 2020, p. 31.

³¹ Mr Tim Dawson, Branch Secretary, Transport Workers Union Western Australia, *Committee Hansard*, 26 November 2020, p. 6.

³² Mr Adam Woltanski, Director, Pacific Telematics, *Committee Hansard*, 19 April 2021, p. 48.

40 minutes away, Mr Kean said that the cameras could help to assess that the driver was fit and well to continue driving.³³

- 7.35 Ms Sharon Middleton, president of the South Australian Road Transport Association (SARTA), commented on the cultural change that her company had to undergo when it first installed the Guardian seeing-eye machine within its long-distance fleet. She noted that her current team of drivers was 'extremely grateful that they have got it on board' and that it gives her and her operations people 'peace of mind'.³⁴ Her colleague Mr Steven Shearer, executive officer with SARTA, added:

I'm aware of quite a few companies that have introduced that system or similar systems. In almost every case, a small number of their drivers have triggered the system and they've been shocked when they were shown the video that showed they were actually having a micro-sleep that they didn't know they were having.³⁵

- 7.36 The lack of driver awareness of micro-sleeps was confirmed by fatigue monitoring technology company Smart Cap Technologies, which submitted that 'an individual's ability to self-assess fatigue risk is insufficient to prevent microsleeps and subsequent accidents'. The company added that with early intervention, in most cases drivers could complete journeys without affecting delivery times.³⁶

- 7.37 Mr Damien Scheidel, managing director of corporate logistics at ALDI Australia, told the committee that ALDI's transport fleet had a telematics fleet management tool installed to assist with fatigue management. The company further submitted:

The in-vehicle driver information will allow our team to plan their work and rest and act when alerted to an imminent or actual breach. The system will also help manage driver performance and allow us to proactively address any poor performance or safety risks behind the wheel.³⁷

- 7.38 Mr Shearer also remarked that in addition to keeping drivers 'safe on that day on that road', the other advantage the technology offered transport companies

³³ Mr Kean Austin, *Committee Hansard*, 29 April 2021, p. 23.

³⁴ Ms Sharon Middleton, President, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 3.

³⁵ Mr Steven Shearer, Executive Officer, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 3.

³⁶ Smart Cap Technologies, *Submission 17*, p. 2.

³⁷ Mr Damien Scheidel, Managing Director, Corporate Logistics, ALDI Australia, *Committee Hansard*, 9 February 2021, p. 2; ALDI Stores, *Submission 18*, p. 7.

was 'they can begin to identify patterns that might emerge that might lead to changes in schedules'.³⁸

- 7.39 A number of stakeholders remarked on the cost of the technology. Mr Dean O'Brien, commercial manager at O'Brien Transport Services, was in favour of incentives such as tax relief to companies to retrofit fatigue technology in all trucks:

At the moment that's not being set by legislation; it's being set by the customers and their expectations ... We would put them in all our trucks tomorrow if we had some assistance because it's a huge cost.'³⁹

- 7.40 Owner driver Mr Frank Arcidiaco could see the applicability of the technology to larger fleets but stated that the 'extra costs on owner-operators would be unbelievable'. For owner-operators, 'when pressures are put on—and we're price takers, not price makers—if you're not earning enough to look after your family and to look after things, it doesn't matter what sort of thing you put in place; it's going to be abused, for the simple fact of surviving'.⁴⁰

- 7.41 While the issue of cost remained unresolved, the question of mandating the technology split some stakeholders. Mrs Jan Cooper, chief executive officer of the Livestock and Rural Transport Association of Western Australia supported fatigue monitoring technologies as long as they were voluntary and were not required in order to access certain roads.⁴¹ The Australian Trucking Association supported the implementation of fatigue and distraction detection technologies by 2025 provided the devices had proven benefits, were implemented as part of a system to improve safety outcomes, and costs did not create a barrier for small operators to participate.⁴²

- 7.42 Mr Mark Mazza, chief executive officer of the transport company South West Express, was more categorical in his assessment:

We no longer see it as a tool; we see it as an obligatory part of running our business. It's already saved us at least two, maybe three, rollovers. I think the technology for the industry needs to be mandated. I know a lot of

³⁸ Mr Steven Shearer, Executive Officer, South Australian Road Transport Association, *Committee Hansard*, 25 November 2020, p. 3.

³⁹ Mr Dean O'Brien, Commercial Manager, O'Brien Transport Services, *Committee Hansard*, 22 November 2019, p. 43.

⁴⁰ Mr Frank Arcidiaco, *Committee Hansard*, 25 November 2020, p. 22.

⁴¹ Mrs Jan Cooper, Chief Executive Officer, Livestock and Rural Transport Association of Western Australia, *Committee Hansard*, 26 November 2020, p. 22.

⁴² Australian Trucking Association, *Submission 91*, p. 9.

truck drivers don't like it. I know a lot of transport companies think it's too expensive. But, honestly, as a safety mitigator, it is an absolute must.⁴³

7.43 In 2019–20 the National Heavy Vehicle Regulator (NHVR) trialled fatigue and distraction detection technologies to determine how best to encourage industry uptake.⁴⁴ After interviews with drivers, owners and other stakeholders using or providing these technologies, the NHVR reported trial participants believed that the technology 'will profoundly reduce the frequency of fatigue and distraction events while driving'.⁴⁵ The NHVR also reported that both 'company representatives and drivers emphasised the critical importance of developing a genuine partnership between governments and industry to actively encourage and support the widespread adoption of fatigue and distraction detection technologies.'⁴⁶

7.44 Future challenges for the adoption of the technology included the industry preference for technologies that 'identify unsafe fatigue and/or distraction events alerts rather than approaches based on continuous surveillance' and the development of effective and workable standards for their use under the Heavy Vehicle National Law (HVNL).⁴⁷ The NHVR report recommendations included:

- that the NHVR and industry encourage road freight and passenger operators to invest in fatigue and distraction detection technology 'as an integral element of their fatigue risk management system'; and
- the HVNL be amended 'to recognise and support the use of fatigue and distraction detection device technology to provide for greater flexibility and safety in hours of work management'.⁴⁸

7.45 The report also advocated for the collection and use of data obtained from fatigue and distraction device technologies to be used to identify the most

⁴³ Mr Mark Mazza, Chief Executive Officer, South West Express, *Committee Hansard*, 26 November 2020, p. 48.

⁴⁴ National Heavy Vehicle Regulators, *Fatigue monitoring trial*, <https://www.nhvr.gov.au/safety-accreditation-compliance/fatigue-management/fatigue-monitoring-trial> (accessed 30 March 2021).

⁴⁵ Andrew Higginson, Professor Drew Dawson and Dr Madeline Sprajcer, *National Heavy Vehicle Regulator, Research Report: Phase 2, Fatigue/distraction detection technology use in the Australian road freight transport sector*, December 2019, p. 2.

⁴⁶ Andrew Higginson, Professor Drew Dawson and Dr Madeline Sprajcer, *National Heavy Vehicle Regulator, Research Report: Phase 2, Fatigue/distraction detection technology use in the Australian road freight transport sector*, December 2019, p. 2.

⁴⁷ Andrew Higginson, Professor Drew Dawson and Dr Madeline Sprajcer, *National Heavy Vehicle Regulator, Research Report: Phase 2, Fatigue/distraction detection technology use in the Australian road freight transport sector*, December 2019, p. 3.

⁴⁸ Andrew Higginson, Professor Drew Dawson and Dr Madeline Sprajcer, *National Heavy Vehicle Regulator, Research Report: Phase 2, Fatigue/distraction detection technology use in the Australian road freight transport sector*, December 2019, pp. 4–5.

effective use of the technologies and eliminate high risk fatigue-related activities.⁴⁹

- 7.46 The NHVR submitted that the regulatory framework needed to provide 'incentives and flexibility to support industry participants who invest in safety systems and technologies and proportionate deterrents for those who choose to actively disregard their safety obligations'. Furthermore, the NHVR stated that the framework should not 'mandate a particular type of technology that compromises market opportunities; rather it should be outcome focused'.⁵⁰

High productivity vehicles

- 7.47 High productivity vehicles (HPVs) are high efficiency, innovative vehicles designed to maximise freight productivity, environmental performance and safety. High performance vehicles are assessed by the NHVR under the Performance-based Standards (PBS) Scheme, to ensure that they are fit for use for specific freight tasks on appropriate road networks. The objectives of the scheme, as described by the National Transport Commission, include 'limiting the number of vehicles on Australian roads, lowering carbon emissions, reducing operator costs, and improving road safety'.⁵¹
- 7.48 Western Australia and the Northern Territory have their own vehicle and route assessment and permit schemes,⁵² with the Northern Territory offering as-of-right access to HPVs across its network.⁵³ CBH Group noted that the Western Australian system 'provides for increased combination lengths (longer than East Coast combinations) and more flexible road access arrangements'.⁵⁴
- 7.49 The PBS fleet in 2019–20 comprised 10 693 combinations (a 19 per cent increase on 2018–19) and 25 585 vehicles (an increase of 21 per cent). PBS combination approvals have doubled in the past five years. The NHVR gazetted 17 new road networks for use by PBS vehicles in 2019–20.⁵⁵

⁴⁹ Andrew Higginson, Professor Drew Dawson and Dr Madeline Sprajcer, *National Heavy Vehicle Regulator, Research Report: Phase 2, Fatigue/distraction detection technology use in the Australian road freight transport sector*, December 2019, p. 5.

⁵⁰ National Heavy Vehicle Regulator, *Submission 52*, pp. 4, 5.

⁵¹ National Transport Commission, *Reforming the Performance-based Standards scheme: Policy paper*, May 2018, p. iii.

⁵² Productivity Commission, *National Transport Regulatory Reform*, <https://www.pc.gov.au/inquiries/completed/transport/report> (accessed 29 March 2021), pp. 194–195.

⁵³ Northern Territory Department of Infrastructure, Planning and Logistics, *Submission 49*, p. 5.

⁵⁴ CBH Group, *Submission 68*, p. 6.

⁵⁵ National Heavy Vehicle Regulator, *Annual Report, 2019–20*, p. 27.

7.50 Inquiry participants informed the committee of the advantages of high productivity vehicles. Mr Gary Mahon of the Queensland Trucking Association, pointed to Australia's large geography and decentralised and distributed population to argue for high productivity vehicles to be used 'to unlock productivity across the country' by making tonne-kilometres 'as efficient as we possibly can'.⁵⁶ Mr Mahon argued that reducing the number of truck trips helped the industry to remain competitive:

When you look at something like an A-double at 30 metres versus a B-double at 26 metres, for every five B-doubles, you can do the work of four A-doubles—that's a 20 per cent lift in productivity for freight tonne-kilometres for a very small extension of length. Reduction of exposure for road safety, reducing fuel burn, reducing tyre wear and lowering our tonne-kilometre cost so that we can be more competitive in our export freight are the sorts of considerations we need to bring to commerce as well. With a growing population and a growing freight—another 26 per cent growth in the next five years or so—we need to come up with more innovative solutions.⁵⁷

7.51 The NHVR quantified the average productivity increase of HPVs as '15 to 30 per cent'.⁵⁸

7.52 Toll Group cited findings from Austroads analysis in 2014 that high productivity vehicles have 76 per cent fewer accidents, which, according to the study, results in 'an estimated saving of 96 lives and \$63 million in insurance claims by 2030'.⁵⁹ Toll Group was also one of several submitters to also extoll the environmental benefits from reduced pollution, noise and greenhouse gas emissions in using PBS vehicles, noting that:

The NTCs Regulatory Impact Statement for the PBS scheme anticipated that the emissions savings between 2011 and 2030 would be 3.75mtCO₂-e reducing the number of vehicles on the road in 2030 by almost 4,500.⁶⁰

7.53 Submitters also pointed out that the reduced trip numbers from the utilisation of HPVs resulted in reduced infrastructure maintenance costs due to less pavement wear from and reduced congestion.⁶¹

⁵⁶ Mr Gary Mahon, Chief Executive Officer, Queensland Trucking Association, *Committee Hansard*, 24 July 2020, p. 40.

⁵⁷ Mr Gary Mahon, Chief Executive Officer, Queensland Trucking Association, *Committee Hansard*, 24 July 2020, p. 40.

⁵⁸ National Heavy Vehicle Regulator, *Submission 52*, p. 6. See also National Transport Commission, *Assessing the effectiveness of the PBS scheme*, <https://www.ntc.gov.au/transport-reform/ntc-projects/pbs-scheme> (accessed 16 April 2021), p. 1.

⁵⁹ Toll Group, *Submission 76*, p. 19, citing Austroads, *Quantifying the Benefits of High Productivity Vehicles*, 2014, <https://austroads.com.au/latestnews/quantifying-the-benefits-of-high-productivity-vehicles>.

⁶⁰ Toll Group, *Submission 76*, p. 19.

- 7.54 Toll Group noted that resistance to HPVs came from other road users who found the vehicles slow and difficult to overtake due to their increased size. Toll Group argued that the federal government should establish a high productivity vehicle infrastructure and education fund to facilitate the movement of HPVs on key freight routes and enhance community understanding of the safety and productivity benefits of HPVs.⁶²
- 7.55 Toll Group was one of a number of submitters that noted that the greatest hurdle to the uptake of HPVs was obtaining the necessary approvals from road managers, and it outlined the process and limitations as follows:

The current process to gain access to the road network is through the NHVR which must negotiate with over 400 different road managers nationally, these are primarily made up of local governments. Many of these can have limited resources, which cause delays in decision making and approvals. Access can also be restricted due to uncertainty about the weight tolerances of bridges across the network. One bridge can effectively restrict access to an entire freight route, which limits the productivity of the sector.⁶³

- 7.56 The Australian Trucking Association advocated reforms to access decisions under the HVNL including expanding as-of-right access and independent review of decisions, developing national service levels for vehicle access and transitioning the National Land Transport Network to a high productivity freight vehicle network.⁶⁴
- 7.57 The need for improved access for heavy vehicles to reduce inefficiencies was also emphasised by NatRoad, which argued that planning for better road infrastructure was 'in part defeated' if optimal routes were restricted or could not be used.⁶⁵
- 7.58 The Livestock and Rural Transport Association of Western Australia (LRTAWA) argued that while the industry had made significant investments in modern equipment, operators had gained little advantage, such as through increased access:

The LRTAWA is concerned about the emphasis on PBS vehicles as being a pre-eminent solution to increased productivity through vehicle configuration. A large proportion of equipment being recognised as PBS Australia wide is now obsolete in WA. The cost involved in the PBS process is prohibitive and, in most cases, restricts any PBS benefits to

⁶¹ Toll Group, *Submission 76*, p. 19; Australian Logistics Council, *Submission 63*, p. 16.

⁶² Toll Group, *Submission 76*, p. 20.

⁶³ Toll Group, *Submission 76*, p. 20.

⁶⁴ Australian Trucking Association, *Submission 91*, pp. 14–15.

⁶⁵ NatRoad, *Submission 47*, p. 9.

companies with more financial resources. This inhibits smaller operators and impinges on the level playing field.'⁶⁶

7.59 Submitters and witnesses also raised the freight connectivity inefficiencies brought about by the need for large vehicles to decant their loads on the outskirts of cities.⁶⁷ Truck driver Mr Mike Williams described the process at the road train break up area at Northam in Western Australia for owner drivers:

If I'm running over there on my own I've got to go into Northam; I've got to split my road train; I've got to take my lead trailer into Perth to drop it off; if I have no-one to do my dog run, I've got to go back out and get the dog trailer and run it back in. That's an extra two truck movements for the same set of trailers and an extra couple of hours.⁶⁸

7.60 While large companies can manage this with additional drivers, Mr Williams asked, 'Why is that road now not gazetted so everyone from the owner-driver to the big company can have the same commercial opportunity?'⁶⁹

7.61 The National Transport Commission (NTC) submitted that in 2018 it had conducted a review into the PBS Scheme. The review found that the main barriers to the take-up of the PBS scheme were 'the complexity and cost of the approval process, and access uncertainty'.⁷⁰ The NTC recommended improvements including 'a national notice to enable automatic access to a national PBS network, with a focus on key freight routes as a priority'. The NTC reported that its reform recommendations were due for implementation in June 2021 'in collaboration with Austroads, state and territory governments and the National Heavy Vehicle Regulator'.⁷¹

Automation

7.62 Another future technology that may have drastic impacts on the road transport sector is automation. Nationally, work has commenced to prepare for the prospect of an automated road transport fleet, through the following work programs:

- The National Policy Framework for Land Transport Technology and Action Plan;

⁶⁶ Livestock & Rural Transport Association of Western Australia, *Submission 61*, p. 5.

⁶⁷ Livestock & Rural Transport Association of Western Australia, *Committee Hansard*, 26 November 2020, pp. 19–20.

⁶⁸ Mr Mike Williams, *Committee Hansard*, 9 February 2021, p. 14. See also Mr Allan Price, *Submission 6*, p. 2.

⁶⁹ Mr Mike Williams, *Committee Hansard*, 9 February 2021, p. 15.

⁷⁰ National Transport Commission, *Assessing the effectiveness of the PBS scheme*, <https://www.ntc.gov.au/transport-reform/ntc-projects/pbs-scheme> (accessed 16 April 2021), p. 1.

⁷¹ National Transport Commission, *Submission 75*, p. 6; Ms Mandi Mees, Acting Executive Leader, Regulatory Reform, National Transport Commission, *Committee Hansard*, 20 April 2021, p. 2.

- Regulatory Reforms for Automated Vehicles; and
- Austroads Connected and Automated Vehicle Program.

7.63 In addition, automated vehicle trials are in place across the country, as well as national coordination through the Office of Future Transport Technology.⁷²

7.64 Various stakeholders expressed varied views about the prospect of an automated road transport sector. Transport and Logistics Centre Limited described the development and use of this technology as a 'seismic shift',⁷³ whereas the Victorian Trucking Association questioned its future.⁷⁴ The National Road Freighters Association spoke of dismay, should road infrastructure be improved to facilitate automation when similar improvements are not made for drivers.⁷⁵

Cash-in-transit transport services

7.65 Cash-in-transit (CIT) transport companies transfer cash between banks and retailers using specialised vehicles, trained guards and road crew. They also perform currency management functions, including note quality sorting and counterfeit detection.

7.66 Linfox Armaguard and Prosegur are the two major CIT providers in Australia with a market share of 80 to 90 per cent. The Reserve Bank of Australia subcontracts to Armaguard and Prosegur as approved cash centre operators. As explained by Ms Annette Carey, chief executive officer of Linfox Armaguard, 'we provide the infrastructure, the insurance, the equipment, the systems and the expertise to handle reconciliation en masse to support the banks, the cash users and the courier network'.⁷⁶

7.67 Ms Carey described the challenges facing the sector as 'predominantly the declining addressable market for CIT, or cash-in-transit services, significant price discounting to capture a share of that shrinking market, a lack of

⁷² Department of Infrastructure, Transport and Regional Development and Communications, *Preparing for Automated Vehicles*, available at: <https://www.infrastructure.gov.au/transport/automatedvehicles/preparing-for-automated-vehicles.aspx> (accessed 12 August 2021).

⁷³ Dr Daryll Hull, Managing Director, Transport and Logistics Centre Limited, *Committee Hansard*, 8 February 2021, p. 35.

⁷⁴ Mr Peter Anderson, Chief Executive Officer, Victorian Trucking Association, *Committee Hansard*, 19 April 2021, p. 3.

⁷⁵ Mr Rod Hannifey, National Road Freighters Association, *Committee Hansard*, 29 April 2021, p. 42.

⁷⁶ Ms Annette Carey, Chief Executive Officer, Linfox Armaguard, *Committee Hansard*, 11 March 2021, p. 2.

minimum standards across the industry and the cost of maintaining highly specialised infrastructure'.⁷⁷

- 7.68 Prosegur noted that between 2014 and 2017, 'cash payments in Australia declined by almost 7 per cent and we have one of the lowest cash usage rates of any developed country'. The transition away from cash resulted in a decline in revenue for CIT companies.⁷⁸ Prosegur added that the impact of the COVID-19 pandemic had accelerated this trend and brought about 'difficult trading condition' for the industry, reducing Prosegur's income by more than 50 per cent.⁷⁹
- 7.69 Officials from the Treasury told the committee that 35 000 organisations in the road transport industry received JobKeeper from April to September 2020 with payments totalling \$1.2 billion for 63 000 employees.⁸⁰ JobKeeper payments had ceased for Linfox Armaguard in September 2020⁸¹ and for Prosegur in October 2020.⁸²
- 7.70 The four major banks operate under a Banknote Distribution Agreement (BDA) with the Reserve Bank of Australia (RBA). According to Ms Carey, Armaguard 'must operate within the rules' of the BDA which 'reflect a time when cash was the predominant payment method and when interest rates were high'. As indirect parties, Armaguard does 'not have the opportunity to negotiate with the RBA directly on how the BDA can be improved to make the wholesale cash system more efficient'.⁸³
- 7.71 Ms Carey contended that the total 'amount of revenue that you can generate by providing CIT and related services, has dropped from about \$440 million in FY 2019 to a predicted \$240 million in FY 2024'.⁸⁴ She argued that CIT providers invest heavily in infrastructure and systems required for the storage,

⁷⁷ Ms Annette Carey, Chief Executive Officer, Linfox Armaguard, *Committee Hansard*, 11 March 2021, p. 1.

⁷⁸ Prosegur, *Submission 127*, p. 3.

⁷⁹ Ms Janine Copelin, Managing Director, Asia Pacific, Oceania and Africa, Prosegur, correspondence received 9 April 2021, p. 3; Ms Janine Copelin, Managing Director, Asia Pacific, Oceania and Africa, Prosegur, *Committee Hansard*, 29 April 2021, p. 46.

⁸⁰ Mrs Philippa Brown, First Assistant Secretary, Treasury, *Committee Hansard*, 11 March 2021, p. 13.

⁸¹ Mr Peter Fox, Chairman, Linfox Armaguard, *Committee Hansard*, 11 March 2021, p. 8; Ms Janine Copelin, Managing Director, Asia Pacific, Oceania and Africa, Prosegur, correspondence received 9 April 2021, p. 1.

⁸² Ms Janine Copelin, Managing Director, Asia Pacific, Oceania and Africa, Prosegur, correspondence received 9 April 2021, p. 1.

⁸³ Ms Annette Carey, Chief Executive Officer, Linfox Armaguard, *Committee Hansard*, 11 March 2021, p. 2.

⁸⁴ Ms Annette Carey, Chief Executive Officer, Linfox Armaguard, *Committee Hansard*, 11 March 2021, p. 3.

distribution and processing of currency, a function formerly undertaken by the Reserve Bank of Australia. As Armaguard estimated its annual infrastructure costs as 'over \$200 million', Ms Carey concluded that there was 'not sufficient revenue now being generated to actually support the ongoing investment in that infrastructure' and that 'the industry as a whole is quickly becoming unsustainable'.⁸⁵

7.72 Prosegur described how it had used product development and innovation to adjust to changes in consumer behaviour.⁸⁶ In Prosegur's view, any measures to ensure the continued viability of the industry must not come at the expense of competition and the company 'strongly object[s] to any government intervention to move the industry towards a monopoly provision of services'.⁸⁷

CIT standards

7.73 Mr Noel Blue, a CIT driver and Transport Workers' Union delegate, told the committee that he believed that there had been a 'collapse in standards' in the industry.⁸⁸

7.74 Mr Blue described the entry of new players into the market—'[s]everal hundred small-operative mums and dads in the states ... working their soft-skin vehicles'. In Mr Blue's view, 'the pressures in the cash-in-transit industry are the highest I've seen in three decades', with fewer guards and drivers transferring cash in non-armoured vehicles 'which don't provide protection from armed assaults'.⁸⁹

7.75 Mr Blue stated that while this made the job quicker and reduced costs for customers, it exposed workers and the public to risk. Furthermore, he alleged that workers subject to violent assaults in the course of their work were not receiving adequate support and that workers seeking to address safety issues had been subject to bullying and intimidation by the companies involved.⁹⁰

7.76 The Transport Workers' Union submitted that continued downward pressure on contracts in the CIT sector had led to 'less training for delivery personnel, less equipment, the use of older equipment, the use of older delivery vehicles,

⁸⁵ Ms Annette Carey, Chief Executive Officer, Linfox Armaguard, *Committee Hansard*, 11 March 2021, pp. 3 and 10.

⁸⁶ Prosegur, *Submission 127*, p. 3.

⁸⁷ Prosegur, *Submission 127*, p. 1.

⁸⁸ Mr Noel Blue, Delegate, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, pp. 17, 18 and 19.

⁸⁹ Mr Noel Blue, Delegate, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, pp. 17, 18 and 19.

⁹⁰ Mr Noel Blue, Delegate, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, pp. 17, 18 and 19.

[and] less deployment of personnel to inspect delivery points before cash and [valuables] are moved'.⁹¹

7.77 According to Ms Carey, there is 'no single national standard across the security industry within Australia'. Rather, CIT providers operate under a range of state and territory regulatory and industry bodies including 'state based legislation for firearms and security licensing, Comcare, various enterprise agreements and the Australian Security Industry Association Limited, ASIAL, Code of Conduct'. CIT providers must also provide protective equipment and training for employees and conduct 'site risk assessments for both work health safety compliance and security requirements'.⁹²

7.78 Ms Carey observed that the decline in cash as a payment mechanism over the last decade had resulted in 'continued bank branch closures, banks moving away from direct business deposits in branch and clients shifting their lower value cash takings to a lower cost courier model'. She argued that the '200-plus courier, low value, covert CIT operators in the industry' were likely to grow and bring with them a decline in standards as 'best practice becomes unsustainable'.⁹³

7.79 Armaguard recommended that an inquiry be conducted:

... which would enable creation of a level playing field and a national remuneration and licensing framework to ensure a more efficient and safe industry, including national accreditation of security licensing and handguns for the CIT industry, the abolition of individual jurisdictional licensing, and the introduction of minimum standards to protect CIT employees, customers and the general community.⁹⁴

Wages

7.80 Witnesses raised concerns about a lack of a level playing field for wages in the CIT industry. Mr Blue contended that there was a differential in wage rates across the industry:

Thanks to the union, the wages at Armaguard are high, as is appropriate considering the nature of the work—the danger that drivers are placed in and the potential for violence against them, which they face daily. However, other parts of the industry do not have wages which are comparable, including businesses such as Prosegur and the smaller CIT

⁹¹ Transport Workers' Union of Australia, *Submission 126*, p. 38.

⁹² Ms Annette Carey, Chief Executive Officer, Linfox Armaguard, *Committee Hansard*, 11 March 2021, pp. 2, 3.

⁹³ Ms Annette Carey, Chief Executive Officer, Linfox Armaguard, *Committee Hansard*, 11 March 2021, p. 3.

⁹⁴ Ms Annette Carey, Chief Executive Officer, Linfox Armaguard, *Committee Hansard*, 11 March 2021, p. 4.

companies. These drivers should be paid wages in accordance with Armaguard's.⁹⁵

- 7.81 Mr Blue argued that government involvement was needed to ensure safe and sustainable rates:

The issue is beyond just any one company; these industry issues are driven by what the cash-in-transit contracts are awarded. Banks and supermarkets are the biggest cash in-transit clients. They award work to the likes of Armaguard or Prosegur, both companies that we, the guards, work for. I've seen the contracts go from one company to another — sometimes we lose them, sometimes we win them — and, when they come back, they're never the same. They come back far worse. In every cycle I've seen, the problems just outlined get worse and worse.⁹⁶

- 7.82 Prosegur maintained that the majority of its employees were engaged under enterprise bargaining agreements and that it paid all its employees 'at or above the award industrial awards in all States'. It further stated that it did not 'run loss-leading models' in Australia, nor use 'foreign profits to "subsidise" losses in Australia'.⁹⁷

- 7.83 Mr Laurie D'Apice, President, Human Resources, Linfox Logistics, suggested that the government could assist by establishing 'a cash-in-transit tribunal ... looking at the floor of what the wages should be'.⁹⁸

Federal Minister for Transport

- 7.84 A major setback in the advancement of interests of the road transport sector is the absence of a dedicated Minister for Transport. This omission, and its impact on the sector, was raised by various stakeholders throughout the inquiry.

- 7.85 The Western Australian Transport Industry Association (WATIA) for example, argued the necessary first step by government was to create a national Minister for Transport. This dedicated Minister would then act as a conduit between all the sectors that interact with the road transport industry, such as agriculture. Its representative, Mr Campbell Dumesny, emphasised that there was no voice for the sector within government which results in:

⁹⁵ Mr Noel Blue, Delegate, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, p. 27.

⁹⁶ Mr Noel Blue, Delegate, Transport Workers Union of New South Wales, *Committee Hansard*, 8 February 2021, p. 18.

⁹⁷ Ms Janine Copelin, Managing Director, Asia Pacific, Oceania and Africa, Prosegur, correspondence received 9 April 2021, pp. 2 and 3; Prosegur, *Submission 127*, p. 4; Mr Gavin Lynch, National Workplace Relations Manager, Prosegur, answers to questions on notice, 29 April 2021 (received 30 April 2021).

⁹⁸ Mr Laurie D'Apice, President, Human Resources, Linfox Logistics, *Committee Hansard*, 11 March 2021, p. 11.

No-one is sitting there valuing the role of the road transport industry and saying that these are critical to our communities. We just don't have a voice within government. We are fragmented across multiple departments. I come back to the point that we're a horizontal market sector. We cross every sector of the economy. We deliver everything except babies, which is our standard euphemism, you know that. But that's also reflected in government. We have no single voice championing the industry. We need one.⁹⁹

7.86 With reference to the complexities that have arisen from the COVID-19 pandemic and the need for coordination across jurisdictions, the Australian Road Transport Industrial Organisation (ARTIO) also iterated the need for a dedicated Minister for Transport (and Minister for Training). Its representative, Mr Paul Ryan asked:

Where are the politicians now, when we need them to provide protection and support for the transport industry? We supported the country; give us a little bit back. Where is the minister for transport? Oh, sorry: there is no minister for transport. Where is the minister for training? Oh, there's no minister for training, at the federal level. As Professor Belzer pointed out and as Mr Kaine pointed out, there are many instances where the transport industry needs training and needs assistance in that area, but we are unable to work that through at the federal level, because there are no responsible authorities to help us. If nothing else, if nothing more comes out of this inquiry, we could at least get some basis of an apprenticeship system to move into the transport industry.

...

[W]e need somebody at the federal level, a minister for transport, that can deal with these issues from a transport related perspective.¹⁰⁰

7.87 A similar view was shared by Mr Warren Clark of the National Road Transport Association, who spoke of smaller sectors that have a dedicated minister, whereas the transport sector goes without:

Wouldn't it be good if we had a designated minister for transport? We've got some pretty small sectors that have designated ministers, without naming them. This is a multi-billion-dollar industry that is vital to this country. It's a big job just on its own.¹⁰¹

7.88 Mr Peter Anderson from the Victoria Trucking Association acknowledged the transport portfolio was under the Deputy Prime Minister, but pointed out

⁹⁹ Mr Campbell Dumesny, Chief Executive Officer, Western Australian Transport Industry Association, *Committee Hansard*, 20 November 2020, p. 26

¹⁰⁰ Mr Paul Ryan, National Industrial Advisor, Australian Road Transport Industrial Organisation, *Committee Hansard*, 28 April 2021, pp. 13-14.

¹⁰¹ Mr Warren Clark, Chief Executive Officer, National Road Transport Association, *Committee Hansard*, 28 April 2021, p. 31.

there was a real need within the industry for a central authority that traverses bureaucracies and ministerial arrangements.¹⁰²

7.89 Mr Andrew McKellar from the Australian Trucking Association, also acknowledged that portfolio responsibility for the transport sector is under the Deputy Prime Minister. However, Mr McKellar commented that without a dedicated federal minister:

[T]ransport responsibilities fall between what the federal government can do and what the state governments do. There are state powers and federal powers. I think short of a referral of those powers, probably to the federal government, you're not going to have a completely national approach.¹⁰³

¹⁰² Mr Peter Anderson, Chief Executive Officer, Victorian Transport Association, *Committee Hansard*, 19 April 2021, pp. 2-3.

¹⁰³ Mr Andrew McKellar, Chief Executive Officer, Australian Trucking Association, *Committee Hansard*, 28 April 2021, p. 27.

Chapter 8

Summary and recommendations

Setting safe and sustainable standards in the road transport industry

- 8.1 The heavy vehicle sector is one of the most dangerous industries in Australia, with an average of 180 deaths per year and an increasing number of hospitalisations. These workplace injuries, traumas and deaths have immense social and economic impacts on drivers, their families, businesses and the general public. The economic cost of road crashes alone equates to \$27 billion per year, with approximately 1500 crashes resulting in hospitalisation and a further 11,000 crashes also leading to injuries.¹
- 8.2 Compounding these safety issues are working conditions that mean road transport drivers are more likely to experience chronically poor physical and mental health. These conditions often include long hours of work, sedentary work environments, poor nutrition, social isolation, shift work, time pressures, and fatigue. The sector also experiences higher levels of suicide than the general population.
- 8.3 Scrutiny of the road transport sector is largely focused upon the risk taking behaviour of drivers (such as driving whilst fatigued, drug use and speeding), and consequent enforcement mechanisms. It is the committee's view that there are insufficient efforts to address the underlying systemic causes for such behaviour.
- 8.4 The underlying economic and contracting pressures are the leading causes of this safety crisis. These pressures are often caused by the major clients of the transport supply chain who set rates of pay, and the terms and conditions through tendering cycles. This behaviour has resulted in a 'race to the bottom' on prices. The committee calls on large companies to exercise corporate responsibility by ensuring that they do not engage operators who themselves engage, or subcontract to others that engage in unsustainable business practices. In the committee's view the use of standard contract terms to more clearly define and manage the responsibility of parties in the supply chain is worthy of further investigation.
- 8.5 Without addressing structural issues across the road transport supply chain, efforts by governments, regulators and the road transport sector to improve safety will be in vain. Drivers risking their lives and wellbeing must be supported by an appropriate regulatory framework administered by an independent body, and designed to address these underlying economic and

¹ Transport Workers' Union, *Submission 126*, p. 13

contracting pressures, with the emphasis on safe contractual rates and payments for drivers and companies, as well as safe workplace.

- 8.6 The committee recognises the development of an independent body must be done through direct engagement with road freight transport industry members from all jurisdictions, including small business operators and drivers.
- 8.7 In terms of powers and operational scope, the body should be equipped with dispute resolution powers to enforce standards across road transport supply chain participants, such as transport operators, online/on demand operations, and workers, regardless of their employment or work status.
- 8.8 The creation of this independent body would provide an avenue for the implementation of nationally consistent heavy vehicle laws across jurisdictions and increase efficiencies for transport operators who traverse the state borders of Australia. Specifically the committee supports legislative amendments to broaden the application of chain of responsibility to online freight matching platforms and to reinstate provisions making chain of responsibility parties deemed to comply.
- 8.9 Additionally, the committee sees the need for a truly national and independent body to monitor and ensure the effectiveness of chain of responsibility and to progress primary duty prosecutions through the courts.

Recommendation 1

- 8.10 **The committee recommends that the government establishes or empowers an independent body that will, in consultation with industry, set universal and binding standards (including binding standards with respect to pay) which:**
- **ensure the safe performance of work and eliminate unsafe economic and contracting practices; and**
 - **apply to all road transport supply chain participants, including transport operators, online/on demand operations, and workers (regardless of their employment or work status), and throughout supply chains.**
- 8.11 **The independent body shall also act as a dispute resolution body providing all road transport industry participants access to comprehensive binding dispute resolution capable of addressing all issues associated with, and general powers to resolve, disputes between some or all supply chain participants.**

Safe rates of pay

- 8.12 The committee is concerned that the abolition of the Road Safety Remuneration Tribunal (RSRT) has resulted in little or no regulatory protection for all commercial operators against low and incentive-based rates,

which create a structural environment for unsafe work practices. An additional function of the independent body would therefore be to ensure binding standards of pay and rates, thereby addressing the strong international and Australian evidence that suggests that the remuneration of drivers and companies is a significant factor in safety outcomes.

- 8.13 The committee is mindful of the lessons learnt from the abolition of the RSRT encapsulated in the following comment by the Transport Workers' Union in its submission:

Owner drivers and employee drivers both suffer from client control of the transport industry. They operate in the same market doing the same work. While their remuneration systems differ in most circumstances, addressing the need for safe and sustainable rates and standards for one group and not the other would be counter-productive. It would simply shift the burden of work on to the group for which such standards were not in place.²

- 8.14 The committee believes a nationally regulated framework of minimum pay and conditions, under the authority of an independent body, is needed to cover all workers, including employees, gig workers and independent contractors in all jurisdictions in the Australian road transport industry.
- 8.15 The committee also recognises the need to address the issue of unpaid wages across the road transport sector. Evidence suggests that the application of the cents per kilometre wage rate in the Long Distance Award for drivers undertaking multiple pickups and drop-offs can result in unpaid work for drivers. The committee is further concerned that paying drivers by the cents per kilometre method incentivises risky behaviour by rewarding drivers that drive the most kilometres in the shortest period of time. The committee supports all rates in the Long Distance Award being paid by the hour.
- 8.16 In addition, the committee believes that transport workers should be remunerated for non-driving tasks such as fuelling, vehicle checks, completing documentation, queuing time and the full time spent loading and unloading.
- 8.17 The committee acknowledges that there is disagreement within the industry on the provision of minimum rates and conditions for contractors. The committee recognises that any formulation of conditions and standards must follow extensive consultation with a broad spectrum of industry sectors and experts and participants.

Payment terms

- 8.18 Maximum thirty day payment terms should be standard business practice in the road transport industry, particularly for owner drivers and other small businesses.

² Transport Workers' Union, *Submission 126*, p. 33.

- 8.19 The *Payment Times Reporting Act 2020*, which commenced on 1 January 2021 and 'requires large businesses and large government enterprises with an annual total income of over \$100 million to publicly report on their payment terms and practices for their small business suppliers' has proven insufficient in mandating acceptable payment times.
- 8.20 In the committee's view, a mandatory code of conduct under the competition and consumer framework that includes payment terms could help provide the certainty to put businesses on a firm financial footing. The formation of binding industry payment terms that ensure all road transport workers and operators are paid in full upon-delivery should be a priority task of the independent body once established.

Recommendation 2

- 8.21 **The committee recommends that the proposed initial priorities of the independent body should include to:**
- **ensure that all workers, whether owner drivers or employee drivers, are paid for all work time, including driving and non-driving time, and that any costs or efficiency dividends associated with this change are allocated fairly throughout the supply chain;**
 - **institute a system of demurrage rates to help drivers and operators recoup costs for waiting and loading times, and that any costs or efficiency dividends associated with this change are fairly distributed through the supply chain; and**
 - **establish binding industry payment terms ensuring that all road transport workers and operators are paid in full upon-delivery.**

Delivering an effective enforcement regime

Enforcement of awards

- 8.22 In a competitive industry there can be significant incentives to underpay wages. The committee has heard evidence of breaches by employers of the wages and conditions specified in the road transport industry awards, and the structural difficulties and disincentives for employees to pursue actions against employers.
- 8.23 The committee emphasises that it is vital for the Fair Work Commission and Fair Work Ombudsman to be adequately resourced to ensure that workers are being paid the award wage, and that the top of the supply chain is being brought into line with the use of enforcement penalties. Furthermore, there needs to be effective and affordable processes for workers to recover underpaid wages and entitlements when an employer refuses to mediate with an aggrieved employee.

- 8.24 The committee also sees value in the Fair Work Ombudsman engaging more with the road transport industry to educate employees of their rights under the award and avenues for redress, and to work alongside the independent body to support its work in establishing binding standards with respect to payments.
- 8.25 The committee is pleased that the Productivity Commission review of the HVNL and the NHVR supports a more risk-based approach to the enforcement of safety measures that recognises that prosecuting drivers for minor breaches is not the most effective way to achieve road safety outcomes. The committee supports the emphasis on enforcement officers increasing compliance through information and education, as expressed by the chief executive officer of the NHVR. However, the evidence presented to the inquiry from drivers and their representatives suggests that there is still some work to be done.
- 8.26 The committee affirms the view that that the HVNL needs to be applied consistently so that non-compliant operators cannot gain a competitive advantage. The committee supports the application of a broad range of sanctions on non-compliant operators such as increased supervision, more regular audits, and limiting their ability to operate as a heavy vehicle transporter. It also supports the introduction of incentives or benefits for those businesses who do comply.
- 8.27 The committee agrees that the relevant authorities need to be resourced to investigate an employer for systematic breaches and to conduct broader industry investigations. The effectiveness of a standard-setting body, as per Recommendation 1, is underpinned by a robust and adequately resourced enforcement framework to ensure compliance.
- 8.28 Under the proposed enforcement framework, the committee calls for government to empower registered industrial organisations, such as trade unions and employer organisations, to conduct inspections and manage enforcement through transport supply chains. To support this, the committee suggests the enforcement framework should include the power to compel all road transport supply chain parties to disclose information about their contracting networks throughout their supply chain, and that this is available to registered industrial agencies and enforcement bodies.

Sham-contracting

- 8.29 The committee is concerned by suggestions that the pay and conditions of road transport workers are undermined in sham contracting arrangements and that operators who are compliant with the law may be losing work to sham operators. Of additional concern to the committee is the evidence that sham contracting practices may be occurring in government construction projects.

- 8.30 The committee encourages workers to report sham contracting arrangements to the Australian Taxation Office.
- 8.31 The committee recommends that the Fair Work Ombudsman undertakes a review of independent contracting arrangements in the road transport industry with a view to uncovering arrangements that misrepresent an employment relationship as an independent contracting arrangement.

Recommendation 3

- 8.32 **The committee notes that any effective standard-setting body must be underpinned by robust and adequately resourced enforcement mechanisms. The committee recommends that the government establishes an effective enforcement framework to ensure compliance with standards (including those established by the proposed independent standards-setting body) by:**
- **providing industrial and road enforcement agencies with dedicated enforcement frameworks and resources;**
 - **providing the Fair Work Ombudsman with resources to conduct a review of independent contracting arrangements in the road transport industry in order to eliminate sham-contracting;**
 - **providing the capacity for registered industrial organisations, such as trade unions and employer organisations, to carry out inspections and enforcement through transport supply chains; and**
 - **compelling all road transport supply chain parties to disclose information about their contracting networks throughout their supply chain and provide such information to registered industrial agencies and enforcement bodies.**

Education, licensing and training

- 8.33 The committee agrees that more proactive measures need to be taken to ensure that road transport workers have a safe and healthy workplace, and is persuaded that mandatory safety induction training would assist in reducing workplace injury and death.
- 8.34 The committee also supports the establishment of national standards aimed at ensuring the financial and organisational capacity of operators to manage workplace safety. The committee is mindful that any national safety standards should minimise as much as possible the cost and red tape imposed on operators.
- 8.35 The committee agrees that a central compliance and accreditation portal could reduce administrative costs and increase efficiency in the road transport industry. However, the format and utility of such a resource may depend on the outcome of changes to accreditation and assurance schemes in the HVNL, currently under active consideration by the Infrastructure and Transport Ministers' Meeting. The committee encourages the NHVR to consult with

industry on whether there is a case for expanding the business information it makes available on company compliance and accreditation. It further supports efforts by the NHVR to lift auditor training qualifications.

- 8.36 The committee sees significant benefit in the expansion of the Transport Education Audit Compliance Health Organisation's BlueCard system as a means to introduce a standardised and universal safety induction unit for the road transport sector. The BlueCard system is currently not compulsory meaning some road transport workers receive no induction training upon their commencement in the industry, or are subject to multiple variants of training modules that are meaningless. The application of a BlueCard system that is standardised, universal and compulsory will improve accessibility, reduce training costs across the sector and lift the quality of training. This measure must also be supported by a skills passport that enables road transport workers to record safety induction and training credentials.

National Heavy Vehicle Competency Framework

- 8.37 Evidence received suggests that three and a half years after its report into aspects of road safety, there remains some way to go in implementing a single national competency-based scheme for heavy vehicle licence training. The lack of a national system of agreed, transferable qualifications for heavy vehicle trainers is an ongoing concern.
- 8.38 The committee notes that phase three of the Austroads review is due to report on an exemplar licensing framework and training and assessment materials in August 2022. In the committee's view, this review, which commenced in 2017, has been far too protracted.
- 8.39 The committee urges the government to put national heavy vehicle training on the agenda of the Infrastructure and Transport Ministers' Meeting as a matter of urgency.

Apprenticeship scheme

- 8.40 The road transport industry is disadvantaged by low levels of education and training which undermine efforts to increase heavy vehicle safety and productivity and provide the workforce needed to meet the projected increases in the freight task.
- 8.41 The declining take-up of formal VET driver operations qualifications strongly suggests to the committee that the current offerings do not confer sufficient benefits on either participants or employers.
- 8.42 The industry has emphasised the need for connected pathways starting from school leavers engaged on pre-driving, fork-lift and maintenance tasks in sheds and leading to comprehensive training on the full range of requirements placed on drivers under the heavy vehicle national law.

- 8.43 While opinions on the preferred training model and curriculum vary, there is strong support for more practical, hands-on training under the tutorage of experienced drivers. The committee therefore proposes the government, in conjunction with industry and state and territory jurisdictions, develop a national apprenticeship training program leading to VET qualifications that combine work experience, structured and supported on-the-job training and formal learning.
- 8.44 The committee supports co-investment from industry and government to fund education and training in the road transport industry. This should be a task of the independent body once established.

Young trainees, women and people from disadvantaged backgrounds.

- 8.45 Stakeholders have been clear that a combination of poor perceptions of the industry and practical barriers continue to deter young people and women embarking on careers in the industry. The adoption of a national, competency-based licensing framework may go some way towards shortening the time required for skilled applicants to progress through vehicle classes.
- 8.46 The committee is persuaded of the value in re-establishing forklift driving as a career entry point for 16 to 18 year olds. While the safety of young people is paramount, the committee acknowledges that young people currently operate other potentially dangerous equipment, including cars. The committee recommends that safe work agencies consult with industry to provide supervised and competency-based instruction for young people to operate forklifts in order to make this an important industry training pathway.
- 8.47 The popularity of training programs aimed specifically at women indicates to the committee that there is a need for targeted programs that provide training for women in a safe, supportive environment. The committee endorses the government developing a program in partnership with industry that provides financial incentives for road transport businesses to provide traineeships for young people, women and people from disadvantaged backgrounds.

Recommendation 4

- 8.48 **The committee acknowledges the various challenges facing the road transport industry arising from a failure to provide universal licensing and training credentials and to support pathways for young and underrepresented road transport workers. The committee recommends that the government works with state and territory governments (in consultation with relevant registered organisations of employers and workers) to:**
- **introduce a standardised, universal and compulsory safety induction unit for the road transport sector;**
 - **introduce an industry skills passport for recording these and all other induction and training credentials;**

- expedite the Infrastructure and Transport Ministers' Meeting consideration of the Austroads review of the Heavy Vehicle Driver Competency Framework and licensing arrangements and implements the results as a priority;
- develop a national apprenticeship scheme for the road transport industry;
- work with Safe Work Australia and in consultation with industry representatives, to develop safe strategies for enabling 16 to 18 year old's to train on forklifts; and
- implement incentive program for businesses that attract young trainees, women and people from disadvantaged backgrounds into the industry.

Investigations, research and data collection

- 8.49 The committee is concerned at the continued high numbers of crashes involving rigid trucks and the sharp increase in deaths of drivers in 2019. Heavy vehicle road safety is a complex and multifaceted issue involving the interplay between vehicle design, the fitness and fatigue of the driver, the degree to which the driver is subject to time and financial pressures, and the state of the road and weather conditions.
- 8.50 In order to gain further insight into the causes of heavy vehicle incidents, the committee agrees that industry would benefit from more thorough investigation and analysis aimed at increasing the understanding of the contributing factors, including through the chain of responsibility, and from making continuous improvement to the safety of the road transport industry. The committee supports expanding the powers of the Australian Transport Safety Bureau (ATSB) to discharge these functions, and to ensure that any investigations undertaken by the ATSB are independent and guided by no-blame investigation principles.
- 8.51 A vital element to a holistic understanding of the causes of heavy vehicles accidents is the recognition that commercial vehicle crashes are workplace accidents. Any considerations of safety and sustainability in the road transport industry must take into account not only collisions on roads, but also the issues of workplace hazards and driver health. Treating such incidents as workplace accidents, would allow an ATSB investigation to improve the data collection on the incident and better consider the causation of such workplace accidents and illnesses for both employees and owner drivers across all jurisdictions.
- 8.52 More broadly, the committee is concerned that much of the understanding of work health and safety in the industry derives from workers' compensation data, and this may be obscuring important work health and safety issues for other industry participants such as independent contractors. The committee urges the government to review its data collection methods to better inform work health and safety policy for all drivers.

Recommendation 5

8.53 The committee acknowledges the importance of ensuring that robust investigatory, reporting and data collection systems are established in the road transport sector. The committee recommends that the government:

- **expands the powers of the Australian Transport Safety Bureau to carry out independent, no-blame safety investigations of road crashes involving commercial heavy vehicles;**
- **ensures all commercial vehicle crashes are recognised, treated and investigated as workplace accidents; and**
- **improves data collection on the incidence and causation of work injuries and illness for both employees and owner drivers across jurisdictions.**

Road infrastructure and driver facilities

Road infrastructure

8.54 The need for government investment in critical road infrastructure to meet growing road freight requirements is an area of key interest among stakeholders. In both urban and rural contexts, inquiry participants expressed their frustration at the lack of understanding of heavy vehicle and road freight infrastructure requirements by road authorities and city planners. The committee urges the government to formalise a consultative mechanism to involve industry stakeholders when road infrastructure is being designed and built.

8.55 In addition to supporting the development of guidelines to inform heavy vehicle-friendly urban design, the committee agrees that the government needs to provide ongoing, dedicated funding to bring freight roads in rural and regional Australia to a standard that supports heavy vehicle access.

8.56 The committee notes that 'smarter and targeted infrastructure' has been recognised by all Australian governments as a priority area for coordinated government and industry action as part of the *National Freight and Supply Chain Strategy* adopted in August 2019. The committee pleased to see that the identified outcomes of the Strategy include improving regional freight links and advancing 'heavy vehicle road reform to facilitate efficient investment in infrastructure'. The committee supports the commitment under the Strategy to develop nationally consistent service-level standards for roads in all jurisdictions, and encourages the government to ensure those standards are delivered for federally funded projects.

8.57 The safety of roads themselves is an ongoing concern of inquiry participants and the committee encourages the government to continue to invest in effective low cost safety infrastructure. It further supports the findings of the Joint Select Committee on Road Safety aimed at improving the Australian Road Assessment Program star rating of roads.

Rest areas and truck stops

- 8.58 The committee finds it unacceptable that the industry is legislatively required to adhere to a national fatigue management framework while the necessary infrastructure, in the form of rest stops, is not being provided. Furthermore the committee is disappointed that access to basic sanitary needs continues to be an impediment to women participating fully in the transport industry labour force.
- 8.59 The committee supports increased federal government investment in the design and construction of designated heavy vehicle rest stops as an integral part of all new road projects and upgrades. The committee agrees with stakeholders on the need for a national rest area standard to ensure that they deliver appropriate facilities, and a national strategy to guide implementation.
- 8.60 The committee acknowledges that the industry is the best judge of its own needs. The committee calls on federal, state and territory governments to facilitate working groups of industry representatives, and in particular truck drivers, to advise on policies on the design and location of new and upgraded roadside facilities. This should be supported by a broader public education campaign, explaining and demonstrating why such facilities should be reserved for the use of heavy vehicles only.

Safety and informal truck stops

- 8.61 As demonstrated in this report, the use of informal truck stops has evolved out of necessity in rural and regional areas. To formalise these locations, the committee calls for the government to establish a project to map, assess, maintain and upgrade freight road stops to meet the minimum frequency and quality of heavy vehicle rest areas contained in the national guidelines. Further, funding should be allocated for installation of low-cost safety infrastructure at such sites, such as rumble strips, green reflectors to alert drivers of suitable heavy vehicle locations to stop, wider medians and improved road shoulders.

Heavy vehicle amenities

- 8.62 The committee appreciates that heavy vehicle cabins are the workplace for drivers and that when used as a place for sleep, should be designed to provide adequate space and comfort to support the wellbeing of drivers. It also recognises that the sleep environment of drivers impacts on the effectiveness of the national fatigue management framework and the safety of Australia's roads.
- 8.63 In the committee's view, regulatory dimension limits for heavy vehicles should not be providing fleet owners with disincentives to provide appropriate working conditions for drivers. The committee supports increasing vehicle dimensions in the regulations to allow for better cabin facilities.

8.64 The committee further supports the principle that ventilation systems for sleep need to be suitable for the climatic zones in which drivers work.

Road and port access charges

8.65 While the Australian Competition and Consumer Commission has been monitoring port fees and competition between stevedores, the government needs to take action to regulate landside port charges to limit the impact on transport and logistics companies, importers and exporters. Action is also required on the lack of regulation of toll fares and the penalising of truck drivers not using toll roads.

8.66 To address these matters, the committee supports the government establishing an independent national regulator tasked with setting commercial vehicle charges, including toll road and port charges.

Recommendation 6

8.67 The committee recognises the importance that road infrastructure and driver facilities have in delivering a safe, sustainable and productive road transport sector. The committee recommends that the government:

- **develops a set of national guidelines for town planners regarding road envelopes and other factors required to facilitate efficient and safe road-based logistics support in metropolitan areas;**
- **identifies priority roads for dedicated and targeted road funding partnerships with relevant jurisdictions to improve the star rating performance of road infrastructure for all road users;**
- **adopts national guidelines for the design and placement of heavy vehicle rest areas for major highways and significant freight routes;**
- **work with all states and territories to mandate heavy vehicle only rest areas;**
- **supports a public education campaign that demonstrates why heavy vehicle drivers must have access to designated rest areas;**
- **increase the allowable vehicle and combination dimensions for heavy vehicles to allow for additional driver amenities;**
- **establishes a national fund to assess, maintain and upgrade freight road in rural and regional areas, to meet the minimum frequency and quality of heavy vehicle rest areas contained in the national guidelines and to support the rolling out of low-cost safety infrastructure such as rumble strips, green reflectors, wider medians and improved road shoulders; and**
- **establishes an independent national regulator to set commercial vehicle charges including toll road and port charges.**

Technological innovation and automation

8.68 There is a high level of support among stakeholders for the use of technology to improve safety and productivity outcomes in the road transport sector,

particularly in the management of driver fatigue. While industry has invested significantly in technologies to keep drivers safe, the committee notes the shortfall in the take-up among small to medium sized businesses due to the cost of installation.

- 8.69 The committee supports the government providing financial incentives to increase the use of telematics technologies in the road freight transport sector, particularly for small operators. However use of this technology must meet strict guidelines designed to protect drivers' privacy and not be utilised for performance management and disciplinary purposes.
- 8.70 More broadly, the committee is supportive of a review of legislative and regulatory systems to prepare the sector for the emergence of automation to ensure that any associated risks and challenges posed by this technology are effectively mitigated. It also agrees that concessions under the Heavy Vehicle National Law be extended to operators who adopt fatigue and distraction detection technology as part of a safety management system.
- 8.71 The committee sees the proposed independent standard-setting body (see Recommendation 1) playing a key role in the development of measures to provide cost-recovery rate allowances for road transport sectors to take-up telematics and other safety critical technologies.

Recommendation 7

8.72 The committee recognises the role which technologies can have in supporting broader industry safety initiatives. The committee recommends that the government:

- **funds an education and awareness campaign around the benefits to small operators of the use of telematics devices, both in safety and efficiency;**
- **ensures that all such telematics and other technologies meet strict guidelines designed to protect drivers' privacy;**
- **ensures that legislative and regulatory systems are reviewed to prepare for the emergence of automation and ensure that the risks and challenges which it may present to workers are effectively mitigated; and**
- **through the proposed independent standards-setting body provide cost-recovery rate allowances for the take-up of telematics and other safety critical technologies.**

Cash-in-Transit industry

- 8.73 The committee heard evidence that the decline in the business model underpinning the CIT industry and in safety standards following the entrance of small operators may be putting workers and the general public at risk.
- 8.74 The committee calls on the government to take action to ensure both the ongoing competitive viability of the CIT industry and the application of

mandatory national standards. Prior to the renewal of the Banknote Distribution Agreement (BDA), the committee urges the government to examine the operation of the wholesale cash system and the relationship between the Reserve Bank, the BDA and approved cash centres. The government should consult broadly with industry participants including cash centre operators to formulate national operating standards, accreditation and licensing scheme and ensure that the rates of service are sustainable for the cash-in-transit industry.

Recommendation 8

8.75 The committee recommends that the government:

- **reviews the Reserve Bank of Australia's Banknote Distribution Agreement (BDA) and the operation of the wholesale cash system and the relationship between the Reserve Bank of Australia, the BDA and approved cash centres; and**
- **in consultation with industry participants, investigates the creation of national operating standards, accreditation and licensing scheme for the cash-in-transit industry.**

Promoting industry best practice

Incentivise best practice

8.76 The committee sees benefit in five-star trucking scheme developed by the Transport and Logistics Centre being applied industry-wide. This ratings system, designed for transport operators, fosters safe work and competitive business practice, whilst setting national industry standards. The proposed system ranks road transport operators from basic compliance to best practice for key safety indicators such as speed, fatigue, driver health and vehicle management. Operators are incentivised to implement best practice through concessions such as reduced roadside heavy vehicle inspections, extended working time hours, and infrastructure access.

8.77 The committee sees significant benefit in the government, in partnership with industry and the Transport Logistics Centre, developing an industry wide-market-based ratings system that incentivises best-practice across the road transport sector.

Government contracts

8.78 To support best-practice across the road transport sector, the committee is also of the view that government must ensure all current and future Commonwealth contracts with a road transport component are only awarded to those road transport operators that apply the highest standards of industrial and road safety compliance. Commonwealth contracts should ensure these standards extend to contractor operations and the broader supply chain.

Livestock effluent disposal facilities

- 8.79 The committee agrees that effluent dumps should be a standard component of the road transport infrastructure along livestock freight routes and urges the Australian Government to assist in planning for a nationwide solution. The committee commends the work being done by ALRTA and the National Transport Commission to improve the legal framework around effluent control.
- 8.80 The committee is concerned that the safety of livestock transporters is being put at risk by unsafe and outdated loading and unloading infrastructure. The committee notes that enforcing the safety of loading and unloading ramps comes under the remit of state work health and safety agencies. The committee encourages state regulators to systematically assess the condition of loading and unloading ramps and do more to publicise the responsibility of producers and processors in providing a safe workplace with adequate facilities including toilets and change rooms.
- 8.81 The committee encourages the Australian Government to raise the safety of loading and unloading ramps with state work health and safety regulators with a view to making it a priority area for compliance assessments. The committee also urges the Australian Government to consider requiring Standards Australia to make standards more accessible to the community in its 2023 memorandum of understanding with that organisation.

Driver fatigue

- 8.82 The need to improve the laws for fatigue management is an area of near universal agreement among industry stakeholders. The committee has heard that drivers want to be able to manage their own rest and do not want a prescriptive and inflexible system. In the committee's view, Western Australian fatigue management legislation offers a proven model that could be effectively adopted by the national law.
- 8.83 The committee reiterates that engagement with industry needs to be at the heart of effective reforms to the HVNL. The committee considers that before electronic work diaries are mandated, that the National Transport Commission, in consultation with industry, needs to examine the reasons why drivers are falsifying the record in written work diaries and resolve any systemic issues before exposing drivers to an increased risk of fines.
- 8.84 The committee recognises that fatigue management laws and their enforcement need to take into consideration the availability or otherwise of heavy vehicle rest areas. The committee is concerned that drivers face difficulties gaining access to truck stops that allow them to have quality rest. It also agrees that special consideration be given to the needs of livestock carriers and that any rest requirements under fatigue management laws take animal welfare into account.

8.85 Overall, the committee recommends the government amend relevant national laws to incorporate an appropriate fit for purpose national framework for managing driver fatigue.

Minister for Transport

8.86 Finally, the advocacy of the road transport sector is significantly hindered by the absence of a dedicated Minister for Transport at a national level. This lack of representation has acted as a barrier to the road transport sector's capacity to develop national training and assistance measures, such as forming a national apprenticeship system for the transport industry.

8.87 The committee sees significant benefit in the creation of a dedicated ministerial position to serve the interests of the road transport sector, tasked with spearheading many of the reforms outlined within this report.

Recommendation 9

8.88 **The committee recommends that the government:**

- **develops an industry wide market-based ratings system to incentivise best-practice in the industry;**
- **ensures all current and future government contracts with a road transport component are only awarded to road transport operators with the highest standards of industrial and road safety compliance throughout their operations and supply chain;**
- **develops a plan and sustainable funding mechanism for establishing managed roadside livestock effluent disposal sites on key livestock freight routes in Australia;**
- **amends national laws to incorporate an appropriate fit for purpose national framework for managing fatigue; and**
- **appoint a dedicated Minister for Transport.**

8.89 In order to better inform the Australian Government on matters of importance to the infrastructure, transport and road freight sectors, the committee calls for the establishment of a Transport Advisory Group or commission. This specialised advisory group should consist of members from the transport industry and unions, and function as a consultative and advisory body for ministers responsible for the infrastructure, transport and road freight portfolios. The committee envisions this advisory group meet regularly, to ensure Australian Government ministers are kept abreast of policy matters and ensure ongoing dialogue.

Recommendation 10

8.90 **The committee recommends the establishment of a Transport Advisory Group or commission that:**

- **consists of members from the transport industry and unions;**

- functions as a consultative and advisory body for ministers responsible for the infrastructure, transport and road freight portfolios; and
- meets regularly to facilitate ongoing dialogue and provide updates on matters of importance to the road transport sector.

Senator Glenn Sterle

Chair

Labor Senator for Western Australia

Additional comments by Coalition senators

The inquiry affirms the statement “Without Trucks Australia Stops” and extends that to “Without trucks and truck drivers Australia Stops”, in acknowledgement of the professionalism and dedication of those at the heart of the industry.

This inquiry acknowledges the outstanding national good will achieved by the road transport industry over the past two years. Hence, we have a responsibility to fully recognise the road freight transport industry for the critical role it plays as an essential service during times of emergencies.

From commencement of the inquiry in late 2019 and continuing today, there have been unprecedented national crises and emergencies (floods, bushfires and a pandemic). The Australian road transport industry has prevailed when all the things we have taken for granted stop working as we expected them to.

From the commencement of the COVID-19 pandemic, when the normal economy was split into two speeds—Parked up, or flat out! Under the most challenging circumstances and constantly changing conditions, the road transport industry demonstrated that it was capable of getting the job done and keeping toilet paper on the supermarket shelves.

On four occasions last year (2020), National Cabinet ratified freight as essential, acknowledging our dependence as a nation on a robust and resilient road transport industry:

- 30 March 2020, when the demand surge during first national lockdown was the equivalent to four Christmas weekends, the decision to lift curfews across the 500 plus local government authorities to ease pressure on the supply chains;
- 25 March 2020, as state borders closed, all freight movement was declared essential;
- National Cabinet decision to recognize truck stops and rest facilities as essential services that must remain open for truck drivers; and
- 7 August 2020, National Cabinet agreed to a National Freight Protocol for interstate drivers travelling into and out of Government declared hotspots.

The maturity and leadership shown by the industry, in close collaboration with government has done so much more than just kept the supermarket shelves stocked.

This period has demonstrated the professionalism and focus of the industry and for these reasons we don't support the opening claim that the heavy vehicle sector is one of the most dangerous workplace in Australia. We acknowledge the workplace

injury, trauma and deaths have devastating impacts on those affected. However, positively there is a trending improvement in these statistics.¹

Comment on recommendations

Coalition senators provide the following comments on the committee's recommendations.

Recommendations 1, 2 and 3

The need to improve the safety and workplace health of the road transport industry workforce was a widely acknowledged outcome of the inquiry. The specific characteristics of the industry that shape the workforce and the workplace, present specific challenges and further investigation is needed to better understand the problems and provide the best solutions to meet these needs.

Recently, the Federal Government, along with stakeholders from the road transport industry, co-funded the "Healthy Heads in Trucks and Sheds" initiative, which is dedicated to providing education and growing awareness of the road transport workforce to support better mental and physical health choices.

The ongoing functioning of the national supply chains and road freight transportation is reliant on a free and competitive marketplace. Recommendations (1, 2 and 3) are the perceived solutions for terrible conditions that still exist in the industry. However, there remains insufficient evidence linking the rates of pay and conditions to safety. This conclusion remains subjective and not supported by qualitative evidence to suggest a causal link. This is referenced by the report under paragraphs 4.17 and 4.18 (see below) in the outcomes of a comprehensive review of safety by the Productivity Commission in 2020 report on National Transport Regulatory Reform.

- paragraph 4.17 – insufficient evidence that the HVNL had a significant effect on heavy vehicle safety outcomes; and
- paragraph 4.18 – Improving (safety) statistics, largely due to new technology and infrastructure investments.

Recommendation 4

Coalition senators agree with Recommendation 4.

On the term of reference (d) the training and career pathways to support, develop and sustain the road transport industry, the inquiry received an outstanding number of submissions.

This interest was indicative of:

- (1) not just the depth of the problem facing the stakeholders;

¹ Reference to the Productivity Commission, *Report on the National Transport Regulatory Reform*, 2020.

- (2) the complexity of the problems— different is each jurisdiction and territory; and
- (3) the generational changes that have occurred across Australia, that has led to the current situation getting worse not better.

The level of response from submitters was also indicative of the maturity and leadership within the industry to develop industry-led solutions and programs that recognise and face these challenges. The intent to proactively work with government at all levels to develop and to finally implement solutions that will grow the professionalism and sustain the performance of the industry going forward, was also welcomed by the committee.

Recommendation 5

Coalition senators agree with Recommendation 5.

However, this recommendation is similar to a recommendation made in the Productivity Commission's 2020 Report on National Transport Regulatory Reform.

Recommendation 6

Coalition senators agree with Recommendation 6.

Recommendation 7

Coalition senators agree with Recommendation 7.

Recommendation 8

Coalition senators question the relevancy of this recommendation to the inquiry's terms of reference.

Recommendation 9

Coalition senators agree with Recommendation 9.

Recommendation 10

Coalition senators do not support Recommendation 10.

This functionality is currently in place in many different formats. The Minister has the ability to take advice broadly across the industry and from a variety of forums. The proposal outlined in Recommendation 10 would likely limit or duplicate this role.

Senator Susan McDonald
Deputy Chair
Nationals Senator for Queensland

Senator Gerard Rennick
Member
Liberal Senator for Queensland

Appendix 1

Submissions and additional information

Submissions

- 1 Mr Ken Warneke
- 2 Mr Darren Delaney, Central Queensland University
- 3 Mr Dale Compton
- 4 South West Express
- 5 Mr Mark Williams
- 6 Mr Allan Price
- 7 Mark Baker Transport
- 8 Tippings Transport
- 9 Mr Jerry Brown-Sarre
 - 9.1 Supplementary to submission 9
- 10 Australian National Audit Office
- 11 Mr Barry Jenner, MSA Consulting
 - Attachment 1
- 12 Australian Livestock and Rural Transporters Association
- 13 Australasian Fire and Emergency Service Authorities Council
- 14 Mr Steven Corcoran
- 15 Royal Automobile Club of Tasmania
- 16 JB Trucking Pty Ltd
- 17 SmartCap Technologies
- 18 ALDI Stores
- 19 Dr Michael Rawling
- 20 Mr Nigel Rutley
 - 20.1 Supplementary to submission 20
- 21 Woodside Energy Ltd
- 22 Tones Truckin Stories
- 23 Mr Ivan Lang
- 24 Mr Robert Ireland, Ireland Bulk Haulage
 - Attachment 1
- 25 QLD Department of Transport and Main Roads
 - Attachment 1
- 26 ANCAP Safety
- 27 The George Institute for Global Health
- 28 Mr Barry Hicks
- 29 Mr Alan Byron
- 30 Mr Trevor Warner
 - 30.1 Supplementary to submission 30

- 31 Mr Keith Cluff
- 32 Mr James McPherson
- 33 Mr Peter Simpson
- 34 Mr Bryce Macdonald
- 35 Mr Selwyn Sinfield
 - Attachment 1
- 36 Mr Shane Jeffrey
- 37 Australian Industry Standards
- 38 Royal Australasian College of Surgeons
- 39 Mr Glen Stutsel
- 40 Australian Academy of Technology & Engineering
 - Attachment 1
- 41 Mr Graham Good
- 42 Australian Local Government Association
- 43 Mr Graeme Walker
- 44 Roe's Holdings
- 45 Mr Rod Hannifey
 - Attachment 1
- 46 Mr Nick Twidale
 - Attachment 1
 - Attachment 2
 - Attachment 3
 - Attachment 4
- 47 Natroad
- 48 Mr Craig Hitchcock
- 49 NT Department of Infrastructure, Planning and Logistics
 - Attachment 1
- 50 Young Country Enterprises
- 51 Mr Ray Pratt
- 52 National Heavy Vehicle Regulator
- 53 Dr Ross Iles, Monash University
 - 53.1 Supplementary to submission 53
- 54 Mr Frank Black
- 55 Red Meat Advisory Council
- 56 OBE Organic
- 57 Towards Zero Foundation
- 58 NSW Business Chamber and Australian Business Industrial
 - Attachment 1
- 59 HPS Transport
- 60 Amy Gillett Foundation
- 61 Livestock & Rural Transport Association of Western Australia (Inc.)

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- 62 Livestock and Rural Transporters Association of Victoria (LRTAV)
- 63 Australian Logistics Council
- 64 Victorian Tippers United
- 65 Mr Chris Jorgensen
- 66 Mr Daniel Roe
- 67 *Name Withheld*
- 68 CBH Group
- 69 Queensland Trucking Association
- 70 Advanced Braking Technology
- 71 Marta Folkard
- 72 Australian Road Transport Industrial Organisation
- 73 Australian Driver Trainers Association
- 74 Truck Industry Council
- 75 National Transport Commission
- 76 TOLL Group
- 77 National Farmers Federation
- 78 Victorian Government
- 79 Department of Infrastructure, Transport, Cities and Regional Development
- 80 Safe Work Australia
- 81 The Interstater
- 82 Northern Territory Road Transport Association, and Western Roads Federation
- 83 Regional Development Australia
- 84 Views of various submitters
- 85 Strategic Sustainability Consultants
- 86 Mr Graeme Nicholson
- 87 Mr Adam Hall
- 88 Engineers Australia
- 89 Transport and Logistics Centre
- 90 Mr Malcolm Readett
- 90.1 Supplementary to submission 90
 - Attachment 1
- 91 Australian Trucking Association
- 92 Insurance Commission of Western Australia
- 93 *Name Withheld*
- 94 Victorian Transport Association
- 95 Ms Kelli-Jo Hoffman
- 96 Transport Accident Commission
- 96.1 Supplementary to submission 96
- 97 *Name Withheld*
- 98 Ainsley Lawyers
- 99 Amazon Australia
- 100 Mr Ross Woolfrey

- 101 *Name Withheld*
- 102 Mr Jason Phillips
- 103 TyreSafe Australia Pty Ltd
 - Attachment 1
 - Attachment 1
- 104 Mr Mike Williams
- 105 Mr Chris Keene
- 106 Mr Glenn Kendall
- 107 Mr Jevan Hart
- 108 Mr John Steuart
- 109 Ms Megan Napper
- 110 Mr Mick Rohloff
- 111 Mr Travis Magick
 - Attachment 1
- 112 Mr Paul Sutton
- 113 Mr Reji Premra
- 114 Trucking Support Agency of Australia
- 115 Mr Nelson Khan
- 116 Connet Source
- 117 Mr Chris Duncan
- 118 Mr Ian Evans
- 119 Mr Gerald Nairne
- 120 Mr Guy Wernhard
- 121 Mr Kerry Woods
- 122 International Labour Organization
- 123 Mr Craig Forsyth
- 124 Mr Ian Evans
- 125 Jesse Camilleri
- 126 Transport Workers' Union of Australia
- 127 Prosegur Australia
- 128 National Road Freighters Association

Additional Information

- 1 Additional information provided by Mr Robert Bell (received 23 July 2020).
- 2 Additional information provided by Mr Trevor Warner (received 5 August 2020).
- 3 Additional information provided by Mr Daryll Hull (received 25 February 2021).
- 4 Response to adverse comments made during a public hearing on Thursday 11 March 2021, provided by Prosegur Australia (received 9 April 2021).
- 5 Additional information provided by the Australian Logistics Council (received 27 April 2021).
- 6 Additional information provided by the Victorian Tippers United (received 29 April 2021).
- 7 Response to submission #52, provided by Mr Arnold McLean (received 13 April 2021).

Answer to Question on Notice

- 1 Answer to questions on notice taken by the Queensland Department of Transport and Main Roads at a public hearing in Brisbane on 24 July 2020 (received 13 August 2020).
- 2 Answer to questions on notice taken by the Queensland Department of Transport and Main Roads at a public hearing in Brisbane on 24 July 2020 (received 25 September 2020).
- 3 Answer to questions on notice taken by the Queensland Department of Transport and Main Roads at a public hearing in Brisbane on 24 July 2020 (received 3 November 2020).
- 4 Answers to questions on notice taken by Tyresafe at a public hearing in Perth on 26 November 2020 (received 26 November 2020).
- 5 Answers to questions on notice taken by Prosegur Australia at a public hearing in Canberra on 29 April 2021 (received 30 April 2021).
- 6 Answers to questions on notice taken by Safe Work Australia at a public hearing in Canberra on 28 April 2021 (received 11 May 2021).
- 7 Answers to questions on notice taken by the National Heavy Vehicle Regulator at a public hearing in Canberra on 29 April 2021 (received 12 May 2021).
- 8 Answers to questions on notice taken by the Fair Work Ombudsman at a public hearing in Canberra on 28 April 2021 (received 13 May 2021).
- 9 Answers to questions on notice taken by the Department of Home Affairs at a public hearing in Canberra on 28 April 2021 (received 19 May 2021).
- 10 Answers to questions on notice taken by the Australian Tax Office at a public hearing in Canberra on 28 April 2021 (received 19 May 2021).

Correspondence

- 1 Correspondence between Senator Glenn Sterle, Chair of the Rural and Regional Affairs Committee and Mr Sal Petrocitto, Chief Executive Officer of the

- National Heavy Vehicle Regulator dated 11 February 2021 and 22 February 2021.
- 2 Correspondence between Senator Glenn Sterle, Chair of the Rural and Regional Affairs Committee and Mr Paul H. Graham, Managing Director Primary Connect and Chief Supply Chain Officer of Woolworths Group dated 17 February 2021 and 1 March 2021.
 - 3 Correspondence between Senator Glenn Sterle, Chair of the Rural and Regional Affairs Committee and Mr Paul H. Graham, Managing Director Primary Connect and Chief Supply Chain Officer of Woolworths Group dated 22 March 2021 and 31 March 2021.

Tabled Documents

- 1 Opening statement tabled by Mr Adam Gosling of TyreSafe at a public hearing in Perth, WA on 26 November 2020
- 2 Series of photographs tabled by Mr Mark Mazza of South West Express at a public hearing in Perth, WA on 26 November 2020.
- 3 Documentation tabled by Mr Simon O'Hara of Road Freight NSW at a public hearing in Sydney, NSW on 8 February 2021.
- 4 Statement tabled by the Transport Workers' Union NSW Branch on behalf of Mr Warren Thomson at a public hearing in Sydney, NSW on 8 February 2021.
- 5 Statement tabled by the Transport Workers' Union NSW Branch on behalf of Mr Ian Hankinson at a public hearing in Sydney, NSW on 8 February 2021.
- 6 Statement and academic paper tabled by Emeritus Professor Michael Quinlan at a public hearing in Sydney, NSW on 9 February 2021.
- 7 Payment documentation tabled by Mr Graeme Walker at a public hearing in Sydney, NSW on 9 February 2021.
- 8 Summary of The Driving Health Study tabled by Dr Ross Iles at a public hearing in Melbourne, VIC on 20 April 2021.
- 9 Opening statement and supporting information tabled by Mr Mark Williams at a public hearing in Melbourne, VIC on 20 April 2021.
- 10 Opening statement tabled by Mr Barry Hicks at a public hearing in Melbourne, VIC on 20 April 2021.
- 11 Documentation tabled by Dr Michael Belzer at a public hearing on 28 April 2021.
- 12 Opening statement tabled by the Australian Logistics Council at a public hearing on 28 April 2021.

Appendix 2

Public hearings and witnesses

Friday, 22 November 2019

Mantra Albury
524 Smollett Street
Albury-Wodonga

Mr Rod Hannifey, Private capacity

Mackinlay Transport

- Mr Gordon Mackinlay, President

Border Express

- Ms Leonie Scanlon, National Compliance Manager

Mr Andrew Bishop, Private capacity

O'Brien Transport

- Mr Dean O'Brien, Commercial Manager
- Mr Rodney McIntosh, Human Resources and Compliance Manager

Roe's Holdings

- Mr Chris Roe, Owner Operator

Intercapital Transport Consultants

- Mr Jerry Brown-Sarre, Professional Long Distance Transport Driver

Ron Finemore Transport

- Mr Scott Finemore, General Manager

Friday, 24 July 2020

Royal on the Park

152 Alice Street

Brisbane

Mr Robert Bell, Private capacity

Mr Trevor Warner, Private capacity

Mr Timothy Squires, Private capacity

Mr Steven Corcoran, Private capacity

Queensland Trucking Association

- Mr Gary Mahon, CEO

Natroad

- Mr Warren Clark, CEO
- Mr Richard Calver, Adviser – Compliance and Workplace Relations

Livestock and Rural Transporters Association of Queensland

- Mr Ian Wild, President
- Mr Mark Collins, Vice President

QLD Department of Transport and Main Roads

- Mr Andrew Mahon, General Manager – Land Transport Safety and Regulation
- Mr Joshua Hannan, General Manager – Transport Strategy and Planning
- Mrs Lucinda Hoffman, General Manager – Transport Policy
- Mr Karl Frank, Executive Director – Heavy Vehicles and Prosecutions
- Mr Anthony Philip, General Manager – Portfolio Investment & Programming

Transport Workers Union - Queensland Branch

- Mr Peter Biagini, Branch Secretary
- Mr Neil Conway, Vice President
- Mr David Cullen, Delegate
- Mr Craig Minns, Delegate

Wednesday, 25 November 2020

Parliament House
Canberra

South Australia Road Transport Association

- Mr Steven Shearer, Executive Officer
- Ms Sharon Middleton AM, President

United Transport Group

- Ms Roxanne Mysko, CEO and Board Member

Transport Workers' Union South Australia/Northern Territory Branch

- Mr Ian Smith, Secretary
- Mr Peter English, Truck Driver
- Mr Frank Arcidiaco, Owner Driver/Linehaul
- Mr George Drysdale, Bus Driver — SA Public Transport

Mr Graeme Buckmaster, Private capacity

Thursday, 26 November 2020

Duxton 1
The Duxton Hotel
1 St George's Terrace
Perth

Transport Workers' Union Western Australia

- Mr Tim Dawson, Branch Secretary

Western Roads Federation

- Mr Cam Dumesny, CEO
- Mr Craig Smith-Gander, Chair

Livestock & Rural Transport Association of Western Australia

- Mrs Jan Cooper, CEO

TyreSafe Australia

- Mr Adam Gosling, Director

Kendall Trucking & Co

- Mr Glenn Kendall, Owner-Operator

Mr Raymond Pratt, Private capacity

Mr Kelvin Cootes, Private capacity

Mr Gary Deane-Spread, Private capacity

Mr Mark Scott, Private capacity

South West Express

- Mr Mark Mazza, CEO

Mitchell's Livestock Transport

- Mr John Mitchell, CEO

Pilbara Heavy Haulage Girls

- Ms Heather Jones, CEO

Monday, 8 February 2021

The Grace Hotel
77 York Street
Sydney

Australian Road Transport Industrial Organisation

- Mr Hugh McMaster Secretary/Treasurer

Road Freight NSW

- Mr Simon O'Hara, CEO

Transport Workers' Union NSW Branch

- Mr Richard Olsen, Secretary
- Mr Anthony Matthews, President
- Mr Gavin Webb, Chief Legal Officer
- Mr Robert Rasmussen, NSW Lead Official
- Mr Chalton Xerri, Concrete Truck Driver
- Mr Noel Blue, Cash-in-Transit Driver
- Mr Steven Burley, Waste Driver
- Mr Malcom Mackenzie, Rideshare Driver

Australian Driver Trainers Association

- Mr Michael Humphries, Director
- Mr Geoff Watt, General Manager

Transport and Logistics Centre

- Dr Daryll Hull, Managing Director

Ainsley Lawyers

- Ms Janelle Whale, Principal

*Dr Michael Rawling, Senior Lecturer, Faculty of Law, University of Technology Sydney,
Private capacity [by audio link]*

TRANZnet [by audio link]

- Mr Ian Reeves, President
- Ms Annette Bould, Vice President

Tuesday, 9 February 2021

The Grace Hotel
77 York Street
Sydney

Aldi Australia

- Mr Damien Scheidel, Managing Director – Corporate Logistics

Emeritus Professor Michael Quinlan, University of New South Wales, Private capacity [by audio link]

Mr Michael Williams, Private capacity

Mr Mick Rohloff, Private capacity

Mr Graeme Nicholson, Private capacity

Mr Keven Mitchell, Private capacity

Mr Robert Bell, Private capacity [by audio link]

United Transport Group [by audio link]

- Ms Roxanne Mysko, CEO/Board Member

Mr Graeme Walker, Private capacity

Thursday, 11 March 2021

Main Committee Room
Parliament House
Canberra

Linfox Armaguard Pty Ltd

- Mr Lindsay Fox, Founder
- Mr Peter Fox, Executive Chairman
- Ms Annette Carey, CEO
- Mr Laurie D'Apice, President, Human Resource Management – Linfox Logistics

The Treasury

- Mr Matthew Maloney, Assistant Secretary
- Mr Philippa Brown, First Assistant Secretary

Monday, 19 April 2021

Rydges Melbourne
186 Exhibition Street
Melbourne

Mr Darren McColley, Private capacity

Australian Road Transport Industrial Organisation

- Mr Paul Ryan, National Industrial Advisor

Victorian Transport Association

- Mr Peter Anderson, CEO

Transport Workers' Union of Australia - Victoria/Tasmania Branch

- Mr John Berger, Branch Secretary

Australian Industry Standards

- Mr Paul Walsh, CEO
- Mr Laurie D'Apice, Chairman

Livestock and Rural Transporters Association of Victoria (LRTAV) [by audio link]

- Mr Graham Howell, Secretary

Pacific Telematics

- Mr Adam Woltanski, Director

National Road Freighters Association

- Mr Glyn Castanelli, Secretary

Linfox [by audio link]

- Mr Peter Fox, Executive Chairman
- Mr Mark Mazurek, CEO

Tuesday, 20 April 2021

Rydges Melbourne
186 Exhibition Street
Melbourne
VIC

National Transport Commission

- Mr Michael Hopkins, Executive Leader—Strategy and Government Relations
- Ms Mandi Mees, Acting Executive Leader—Regulatory Reform

Victorian Tippers United

- Mr Luke McCrone, Secretary

School of Public Health and Preventive Medicine, Monash University

- Dr Ross Iles, Senior Research Fellow

Mr Mark Williams, Private capacity

Transport Women Australia

- Ms Jacqueline Brotherton, Chair

MSA Consulting

- Mr Barry Jenner, Principal

Mr Campbell Dumesny, Private capacity [by audio link]

Mr Chris Jorgensen, Private capacity

Ms Nicole Jorgensen, Private capacity

PGW Contracting [by audio link]

- Mr Peter Simpson, Owner Operator

Mr Daniel Roe, Private capacity

Mr Barry Hicks, Private capacity

FBT Transwest

- Mr Cameron Dunn, Managing Director

Mr Graham Garner, Private capacity

Wednesday, 28 April 2021

Committee Room 2S3

Parliament House

Dr Michael Belzer, Private capacity

Transport Workers' Union National Office

- Mr Michael Kaine, National Secretary

Australian Road Transport Industrial Organisation (ARTIO)

- Mr Paul Ryan, National Industrial Advisor

National Road Freighters Association

- Mr Gordon Mackinlay, Member

Australian Trucking Association

- Mr Andrew McKellar, CEO
- Mr Bill McKinley, Chief of Staff

National Road Transport Association

- Mr Warren Clark, CEO
- Mr Richard Calver, Adviser

Australian Livestock and Rural Transporters Association

- Mr Scott McDonald, President
- Mr Mat Munro, Executive Director

Australian Logistics Council

- Mr Kirk Coningham OAM, CEO
- Ms Rachel Smith, Director—Policy and Advocacy
- Mr Kerry Corke, Policy Consultant

Safe Work Australia

- Ms Sinead McHugh, A/g Director—WHS Framework
- Dr Rebecca Newton, Branch Manager—Chemicals, Occupational Hygiene and High Risk Policy
- Ms Meredith Bryant, Branch Manager—Evidence and Strategic Policy
- Ms River Paul, Director—Data Analysis
- Ms Kyra Hutchison, Director—Data and Research, Injury Fatalities and Surveys
- Mr Bill Smith, Director—High Risk Work and Construction Policy

Fair Work Ombudsman [by video link]

- Mr Anthony Fogarty, Executive Director—Policy
- Mr Steven Ronson, Executive Director—Enforcement

International Labour Organization

- Ms Alejandra Cruz Ross, Transport Specialist

Australian Tax Office

- Ms Michelle Allen, A/g Assistant Commissioner — Risk and Strategy - Employer Obligations
- Mr George Montanez, Assistant Commissioner — Phoenix Program

Thursday, 29 April 2021

Committee Room 2S3

Parliament House

Department of Home Affairs and Australian Border Force

- Mr Michael Willard, First Assistant Secretary — Immigration Programs, Department of Home Affairs
- Mr Phil Brezzo, Assistant Commissioner — South and Enforcement, Australian Border Force
- Mr Ben Biddington, Commander — Enforcement National, Australian Border Force

National Heavy Vehicle Regulator

- Mr Sal Petrocchio, Chief Executive Officer

Engineers Australia

- Ms Sybilla Grady, Senior Policy Advisor
- Mr Scott Elaurant, Member
- Dr Brett Hughes, Member [by video link]

Mr Kean Austin, Private capacity [by video link]

Mitchell's Livestock Transport

- Mr John Mitchell, CEO

ACFS Port Logistics

- Mr Arthur Tzaneros, CEO/Managing Director

National Road Freighters Association

- Mr Rod Hannifey, National President
- Mr Craig Forsyth, NSW Director

Prosegur

- Ms Janine Copelin, Managing Director — Asia Pacific, Oceania and Africa
- Mr Andrew Nathan, Commercial Director
- Mr Gavin Lynch, National Workplace Relations Manager

Austroads

- Mr Geoff Allan, Chief Executive

Department of Infrastructure, Transport, Regional Development and Communications

- Ms Christine Dacey, Deputy Secretary
- Mr Philip Smith, First Assistant Secretary
- Ms Paula Stagg, Assistant Secretary – Land Transport Policy Branch
- Ms Gabby O'Neill, Assistant Secretary – Office of Road Safety
- Ms Maree Bridger, First Assistant Secretary
- Ms Anita Langford, Assistant Secretary – Vehicle Safety Policy and Partnerships Branch
- Ms Gayle Milnes, First Assistant Secretary
- Ms Louise Rawlings, Assistant Secretary – Bureau of Infrastructure & Transport Research Economics (BITRE)
- Ms Stephanie Werner, Assistant Secretary – Transport Market Reform and Technology Branch
- Ms Naa Opoku, Assistant Secretary – Transition & Internal Coordination Branch

Tasmanian Transport Association

- Mr John de Bruyn, Chairman
- Ms Michelle Harwood, Executive Director