

COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

Senate

Rural and Regional Affairs and Transport Legislation Committee

Oversight of Department of Infrastructure, Regional Development and Cities

(Public)

Monday, 19 November 2018

Canberra

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Senate

Rural and Regional Affairs and Transport Legislation Committee

Monday, 19 November 2018

**Members in attendance:** Senators O'Sullivan, Sterle.

**Terms of Reference for the Inquiry:**

To inquire into and report on:

Department of Infrastructure, Regional Development and Cities

BOBBERMEN, Mr David, Safety Program Manager, Austroads8

McKINLEY, Mr Bill, Chief of Staff, Australian Trucking Association1

NEELAGAMA, Mr Isuru, Manager, Intergovernmental Relations, National Heavy Vehicle Regulator8

NYAKUENGAMA, Ms Sharon, General Manager, Vehicle Safety Standards Branch,
Department of Infrastructure, Regional Development and Cities8

SPENCE, Ms Pip, Deputy Secretary, Transport, Department of Infrastructure,
Regional Development and Cities8

SQUIRE, Mr Matthew, Director, National Heavy Vehicle and Rail Regulation,
Department of Infrastructure, Regional Development and Cities8

TUCKER, Ms Sue, Senior Director, Vehicle Safety Standards Branch, Senior Director,
Vehicle Safety Standards Branch8

WERNER, Ms Stephanie, Acting Executive Director, Surface Transport Policy Division,
Department of Infrastructure, Regional Development and Cities8

McKINLEY, Mr Bill, Chief of Staff, Australian Trucking Association

**Committee met at 17:07**

CHAIR (Senator O'Sullivan): I declare open this public hearing. The committee is inquiring into matters of road safety under Senate standing order 25(2)(a). I welcome you all here today. This is a public hearing, and a *Hansard* transcript of the proceedings is being made. Before the committee starts taking evidence, I remind all witnesses that in giving evidence they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee.

The committee prefers all evidence to be given in public, but under the Senate resolutions witnesses have the right to request to be heard in private session. It is important that witnesses give the committee notice if they intend to ask to give evidence in camera. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken. The committee will determine whether it will insist on an answer, having regard to the ground that is claimed. If the committee determines to insist on an answer, the witness may request that the answer may be given in camera. Such a request may, of course, also be made at any other time.

Finally, on behalf of the committee, I would like to thank those organisations which have sent representatives today. I welcome Mr Bill McKinley of the Australian Trucking Association. Do you wish to make an opening statement, Mr McKinley?

Mr McKinley: Yes, I do, thank you, Chair.

CHAIR: I just remind you that it's your time and we're here to hear from you, but the longer you take with an opening statement, the less opportunity that the senators have to examine what you have to say. I just ask you to keep that in mind. You have the floor.

Mr McKinley: I will keep it short. Thank you for the opportunity to brief the committee about the progress of implementing autonomous emergency braking and improving driver training. Autonomous emergency braking is the next step in truck-braking technology. The potential safety benefits are massive: a reduction in fatal crashes of up to 25 per cent and in serious injury crashes of up to 17 per cent. The infrastructure department is working on the regulatory impact statement for mandating this technology, but there were significant problems with the electronic stability control RIS that need to be addressed before the emergency-braking process goes too far.

On ESC: the new stability control requirements do not cover most rigid trucks. These requirements are projected to save 126 lives and avoid 1,101 serious injuries. If the requirements were extended to all trucks weighing more than 4.5 tonnes, an additional 22 lives could be saved and an extra 395 serious injuries could be avoided. This would cost truck purchasers an extra $112 million over 35 years. The cost is trivial compared to the benefits. Using willingness-to-pay values, it would deliver a benefit-cost ratio of 2.24, an entirely acceptable benefit-cost ratio. It's more, for example, than the benefit-cost ratio of requiring electronic stability control for new passenger trucks.

So, in the ATA's view, the department and the government must, first, revisit the decision not to require ESC for rigid trucks; second, base the RIS recommendation on emergency braking on achieving the highest number of lives saved and injuries avoided at reasonable cost; and, finally, use willingness-to-pay values for both the cost of fatalities and the cost of serious injuries. The ESC RIS understated the benefits of this safety technology because it did not value the cost of serious injuries appropriately.

I will turn now to truck driver licensing and training. I know this is a subject that is very important to the committee, and it is important to us.

CHAIR: You don't have to spend a lot of time on this one or the next one—right?

Mr McKinley: Training: you recommended that the National Heavy Vehicle Driver Competency Framework review should raise the standard required of both heavy vehicle drivers and instructors. The Austroads report has now been completed. It wasn't complete at the time of your report. It's a public document, but I've provided copies to the committee. This report really shows that the situation is every bit as bad as the committee thought and as bad as the ATA thought. It found that the current approach has created a race to the bottom.

It looked, as an example, at the existing heavy rigid licensing unit. It found that that unit only covers only four out of 10 identified safety risks. The report found that the median length of time for training for a licence was 10 to 20 hours, with the Victorian government, which has put together recommended times, recommending 40 to 60 hours of training. The report concedes that its estimate of the median time that people actually spend training is probably an overestimate—so 10 to 20 hours is its estimate, but it concedes it's probably too high. Austroads is now preparing a second report to identify what can be done to increase national uniformity.

The ATA believes there needs to be national leadership on, firstly, upgrading the driver-licensing standards and increasing the emphasis on what you might call road craft, the skills that truckies like Senator Sterle have—the ability to perceive hazards, for example, not just the technical control of the vehicle—

Senator STERLE: Great stuff.

Mr McKinley: and secondly, mandating minimum training hours for truck drivers in the same way that Victoria and Queensland have minimum training hours if you're learning to ride a motorbike. One of our members, DECA training, trains drivers for more than 100 hours as part of its superior heavy-vehicle-licensing program. That seems to be a good place to start. Trainers should be provided with support material they have to use, and there need to be standardised requirements for heavy-vehicle-driver trainers and assessors.

It's worth reflecting in conclusion that the current debate about truck driver training started in 2015 following the coronial investigations into the fatal crashes on the Crafers descent, where industry argued that the training standard for steep descent driving should be increased. You, the committee, looked very closely at the February 2016 M5 incident, which highlighted significant problems with the training and assessment delivered by the RTO system. You yourselves issued your final report on your inquiry into aspects of road safety more than a year ago. So the only conclusion I can reach is that this process of improving truck driver licensing and training needs to be speeded up. Thank you, committee. I look forward to your questions.

CHAIR: Thank you, Mr McKinley. Before we go on, does any senator object to the tendering of the Austroads research report AP-R564-18? There being no objection, it is so tendered.

Senator STERLE: Mr McKinley, that's music to our ears. When I say that, no, it's not music, but it's great that the industry and we are all on the same page—

Mr McKinley: On this we are, Senator.

Senator STERLE: which is very good. It's great. To acknowledge the report that Senator O'Sullivan and I co-authored and the work that was done in this committee when we saw the problems that are out there: they're truly out there. The M5 incident still gets brought up by me regularly. They culminated in something similar in Sydney a couple of weeks ago, with a truck in some part of Sydney where it's dangerous that went through a McDonald's car park—I apologise; I don't know. In terms of the road craft—this is the part that really interests me, Mr McKinley—I'd be keen to know what road-craft training and skills would consist of from the ATA's position. I know mine, because we send drivers out there on the road who wouldn't have a clue how to change a tyre, for starters, let alone before we get to loading and whatnot.

Mr McKinley: The current training standards concentrate—to the extent that they concentrate on them—on basic technical skills in driving the vehicle, so changing gears, if it has manual gears, steering and all the rest of it. But driving a vehicle requires a much greater suite of skills that, at the moment, drivers mainly get through experience. They're very often not mentored, as you know. They very often have to learn as they go along and apply what they know from their process of learning to drive a car to driving a truck.

The skills needed to drive a truck and operate safely are much broader than just the technical skills required to steer the vehicle down the road. In particular, hazard perception is particularly important. Essentially, it is what you might call defensive driving, understanding where the hazards are and the best response to them. I would add that a second cohort of skills needs to be on how to best use the technology that is coming into trucks, such as antilock brakes, electronic stability control, forward collision warning and so on—understanding what those alerts mean when they come up and what you as a driver need to do about them. These skills are completely inadequately covered in the existing training standards.

Another area of standards that are not covered appropriately is, if you like, skills that go slightly beyond the basic technical skills of driving the truck. To turn to the heavy rigid standards, for example—and I want to emphasise that the Austroads report looked at these as an example—areas that are not covered in the heavy rigid licensing unit of competency include managing in-cab distractions. That's vitally important and likely to become even more important. It does not adequately cover coupling, uncoupling and towing. It does not adequately cover managing fatigue or loading and unloaded, as opposed to—

Senator STERLE: Can I jump in there please, Mr McKinley?

Mr McKinley: Of course.

Senator STERLE: It pricked my ears when you talked about coupling and uncoupling not being addressed in the training standard. So, in other words, are you saying the trainers aren't teaching how to couple and uncouple?

Mr McKinley: Some trainers I'm sure are, but the compulsory standard does not adequately cover it.

Senator STERLE: I'll tell you why I ask. I had the misfortune of having to resit my licence—it's a long story, but I went out and did it anyway. It was funny because the instructor was a fellow I'd known for about 20-odd years. But I had to do the coupling and uncoupling as part of the test. So may I just raise this with you: if it's not a compulsory standard, how the hell do they get past the test?

Mr McKinley: This goes to the—

Senator STERLE: Well, they don't in the case of K&S subcontractors.

CHAIR: You didn't say it wasn't a compulsory standard; you said it was inadequate.

Mr McKinley: Yes, that's right.

CHAIR: So it is a standard, but the standard is inadequate to properly test. Is that what you're saying?

Senator STERLE: No. Mr McKinley can answer himself, but I took it as: some teach but some don't.

Mr McKinley: This goes to the highly variable quality of training—

CHAIR: Sorry to interrupt, but I want to know this: is it a standard that you need to meet to uncouple the truck to get your licence? You may call it an inadequate standard; some people may or may not teach it to a student. But is it a standard that's required?

Mr McKinley: Bear with me for one moment.

Senator STERLE: I think it's a very good point you raise, Chair, because this was the whole problem of: how the hell did these drivers get their licence?

CHAIR: The other thing you need to ask about—and I'll leave it to you—is the recognition of some of the overseas licences.

Senator STERLE: Yes, that's right.

CHAIR: That may be how they got to operate on the road—coming from another place with a different standard. Let's take it on notice, Mr McKinley.

Mr McKinley: If I could turn the committee to page 29 of the Austroads report. This is a comparison of the heavy rigid licensing unit and known safety risk areas. I'm looking at the second row of cells in the table.

Senator STERLE: 'Towing trailers, including coupling/uncoupling and reversing.'

Mr McKinley: In the HR licensing unit, no doubt because—

Senator STERLE: Because they don't tow a trailer.

Mr McKinley: Well, some don't—it's not covered. The expert consultant's recommendation was that towing trailers only appears in HC and MC units.

Senator STERLE: That is an absolute chasm, isn't it, because we know that we have dog trailers and pig trailers.

Mr McKinley: Coupling, uncoupling and towing should be included in licensing for all heavy vehicle classes.

Senator STERLE: That's it—very good. Thank you.

CHAIR: Just to make sure that your evidence is clear in *Hansard*, it's not a case of it being inadequate; it doesn't exist.

Mr McKinley: Well, that's what the expert consultant to Austroads—I emphasise that this isn't an industry report; this isn't an ATA document.

CHAIR: I just wanted to be certain that you had some independent knowledge that you'd shared with us when you said it was inadequate.

Mr McKinley: Absolutely, yes.

CHAIR: But what you should've said is, 'It's not inadequate; it just doesn't exist.'

Mr McKinley: That's not to say that some trainers don't teach it anyway.

CHAIR: No, I wasn't interested in the training.

Senator STERLE: No, because it was heavy rigid.

CHAIR: I was interested in the testing.

Senator STERLE: That's also where I was going with MC and HC. I'd like to ask some more questions, if I could.

Mr McKinley: Of course.

Senator STERLE: We know there's no-one better placed than industry people to develop competency standards and modules, so have the ATA undertaken that work? We can't leave it to ASQA; that's obvious.

Mr McKinley: The ATA and its members are involved in the committee process for developing industry standards. The licensing units are on the list of units to be reviewed. Those reviews have not started yet, and we don't control the timing of them. Our repeated submissions to the standard-development process has been that these need to be looked at as a matter of urgency. When those reviews do come up—we will continue arguing that they should be done earlier, and I've no doubt that governments will argue that they should be done earlier—we will provide our expertise to the process, as I've no doubt the TWU and other stakeholders will do.

Senator STERLE: This is what we need to do, absolutely, and we need to do it together, as an industry, not in a disjointed way. So that's good. Can I go back—I'm thinking of time here—to the regulatory impact statement. Mr McKinley, you've got a lot of things to do that are important. In Senate estimates we were going along the lines of the regulatory impact statement in light vehicles in terms of autonomous emergency braking and lane assist. Let's go back to what you said in your opening statement about the electronic stability control. We're not looking at rigid vehicles; we're only looking at prime movers. Is that correct?

Mr McKinley: The final decision was that ESC would only be mandated for prime movers weighing more than 12 tonnes and for a relatively small number of short-wheelbase rigid trucks that could conceivably be turned into a prime mover.

Senator STERLE: Or that pull five trailers of ore or something like that.

Mr McKinley: Exactly.

CHAIR: Have you met with Mr Buchholz?

Mr McKinley: That happens next week.

CHAIR: Okay.

Senator STERLE: Can you please inform the committee of the reasoning, to the best of the ATA's knowledge, for only going to prime movers when the majority of our fleet is the smaller stuff.

Mr McKinley: The Office of Best Practice Regulation requirements for regulatory impact statements require that departments only ever recommend the policy option offering the greatest net economic benefit. When you chop up the regulatory option of mandating standards, it seems that mandating them for a narrow group of vehicles offers the greatest benefit-cost ratio.

Senator STERLE: I don't want to put you in a difficult position, but what value do we put on the possibility of saving an extra 22 lives and 300 serious injuries?

CHAIR: We'll know the answer to that in about four minutes, when the department sits there.

Mr McKinley: That's the ATA's view. In our view, mandating this requirement for essentially all heavy vehicles—with a number of narrow technical exemptions where the technology doesn't really work—achieves a benefit-cost ratio of 2.24. That is well within the scope of what governments deem an acceptable BCR for a road safety measure, and you get to save more lives and avoid more serious injuries. We are the people who have to pay for this, and we were happy—and still are—to pay the extra cost to extend ESC across the entire truck fleet, for new trucks and new model trucks, over the next 35 years as new trucks come into the market. The RIS acknowledges that most stakeholders wanted mandatory ESC across the fleet, again with some minor technical exemptions. Instead, we've ended up with a situation where rigid trucks are excluded, leading to the illogical situation where a car driver who's learned to drive in dad's car or mum's car, which probably has ESC, decides to work as a truck driver and the first truck they drive may well not have electronic stability control. So they're immediately put into a situation where they're driving a vehicle with handling characteristics that they're not familiar with, because it doesn't have the safety tech and isn't required to have it.

Senator STERLE: Can I just clarify: your figures of 112 million over the new fleet for the next 35 years would include all those vehicles above 4.5 tonnes. Is that correct?

Mr McKinley: Yes.

Senator STERLE: When we do some simplistic sums there—and I'm not going to calculate it back to what it would cost for a hand of bananas from Queensland down to the Melbourne markets or for a flat-screen TV off the port in Fremantle, which is the argument we should be having as an industry to highlight how ridiculously low these figures are when we talk about road safety and saving lives—what would that equate to, roughly, per new vehicle per year? Have you done those sums?

Mr McKinley: Yes. For a new vehicle, the cost of electronic stability control for a truck is about $1,500 and the cost of ESC for a trailer is about $525.

Senator STERLE: Seriously, that's what we're arguing here?

Mr McKinley: Yes.

Senator STERLE: We're not even arguing it.

Mr McKinley: No, I think we're agreeing, actually.

Senator STERLE: I mean we, as a nation, are not even having this sensible argument with the regulators to say: 'Are you serious? It's $1,500! A truck will cost $200,000 or $300,000.'

CHAIR: I'm pleased you've raised that because we're about to have it.

Senator STERLE: I can't believe it's that silly.

CHAIR: Mr McKinley, is there any other burning fact or issue that you'd like to bring to the attention to the committee?

Mr McKinley: I want to briefly raise the issue of willingness to pay.

CHAIR: Keep it brief because every minute now you take off our examination of the department.

Senator STERLE: Okay, I'll shut up.

Mr McKinley: Okay. You have to put a value on a statistical life and on a statistical serious injury to do a BCA; you have to have a number. It is longstanding government policy that those numbers be based on what is called willingness to pay, which essentially takes people at their word when they say how much they're willing to pay to avoid being seriously hurt or injured. The emergency-braking RIS needs to use willingness to pay for both serious injuries and fatalities. The ESC RIS used willingness to pay only for fatalities. As a result, the benefit-cost ratio for the ESC RIS was too low. It underestimated the benefit-cost ratio. I will leave it there.

CHAIR: Sorry, the secretary has brought it to my attention that we do have some time. Mr McKinley, what evidence do you rely on to say that the industry doesn't have an objection to the cost?

Mr McKinley: We consulted through our membership and through our Industry Technical Council, and the overwhelming view was that we're prepared to bear the cost, which is objectively tiny, is spread over all truck purchases—

CHAIR: Let's look at the parameters of this, because it's important that we have some detail to put to the department. How many people are in the sector, and what percentage of that number do you represent?

Mr McKinley: Let me start off by saying that these truck purchases are made by firms well outside the trucking industry, particularly in the rigid truck sector, where many companies that wouldn't dream of transporting a load for hire or reward buy trucks. What we're talking about is a measure that affects truck purchases, not just trucking businesses.

CHAIR: What percentage of people who've purchased a truck and now have it in their possession would be represented by your organisation? Forget about the number of people—what percentage of the fleet?

Mr McKinley: In terms of trucking businesses, there are 50,000 trucking businesses in Australia. Most of them are non-employing businesses, so they're owner-drivers or small partnerships. That's about 25,000 businesses. Our direct members—the ATA's direct members—are associations, and those associations have members. So, if you like, McKinley Trucking Pty Ltd would join a state association—

CHAIR: Yes, but it seems, Mr McKinley, that you can't answer my question. I'm going to ask it one more time and I'll go line by line this time. How many trucks are there in the country? Have you got any idea of that?

Mr McKinley: There are about 440,000 trucks in Australia.

CHAIR: What percentage of those trucks would be owned by or in the possession of a person who's affiliated with one of the organisations that's affiliated with you? Do you have any idea?

Mr McKinley: We think in terms of businesses rather than trucks, so I would have to take that question on notice.

CHAIR: But when you're looking at a cost-benefit analysis, that doesn't help us, does it? Because all of these owners of trucks, whether you own one or you own 100 of them, ought to have input into the question as to whether they're happy to pay, right? I'm looking for the specifics, because when the department comes up here they're going to tell us something different. How did you survey these 440,000 owners to know that, of those, 300,000 came back and said, 'We're happy to cop this on the chin'?

Mr McKinley: We represent our members, who are associations who have trucking businesses as members themselves. Our approach is to ask them.

CHAIR: Have you asked all of your members?

Mr McKinley: Yes.

CHAIR: Without going any further, if you didn't expand it beyond your members then your evidence ought to be that your members are happy to wear this on the chin.

Mr McKinley: Yes, our members are happy to wear it on the chin.

CHAIR: Okay, so what process did you follow with your members? Did you ask every member, and how did you do that? Was it in the form of a survey?

Mr McKinley: Because we have a hierarchical structure, we surveyed and sent out for consultation our proposed position to our association members, and they went through their own internal processes to reach a view. I've no doubt some pushed it out to all of their members; some have representative committees.

CHAIR: But we don't know. Is it fair to say that we don't know?

Mr McKinley: We don't have an insight into their processes—

CHAIR: That's right, so they may—

Mr McKinley: and it's not for us to tell them what to do.

CHAIR: On one extreme they may have sent it to them all; on another extreme they may have sent it to nobody. Could you take that on notice to inquire of your organisations. To put it into context, you may only have 10 members who own two trucks each, so you would represent the views of 20 truck owners, be it that some of them may own multiple trucks, out of 440,000. I'll just hose the view of your association out of consideration for me. But if you've consulted in relation to 80,000 or 100,000 trucks under ownership—I don't care if it's 10 people or a million people—that's starting to carry some weight for me, because that says a quarter of the marketplace who were surveyed said there's no problem. I could extrapolate that myself. Do you get the vibe of what I'm looking for, to assist us to take it on?

Mr McKinley: Yes. Leave that question with me. I will take it on notice.

CHAIR: Thank you.

Senator STERLE: Can I make a statement, Chair. I concur with what you're saying, but I am absolutely lifted that the main trucking association is now going down this path.

CHAIR: Sure, so am I. But I want to be able to defend their evidence—

Senator STERLE: No, I get it.

CHAIR: by knowing exactly what the science was behind it.

Senator STERLE: Mr McKinley, in terms where your membership is with hire and reward, it would be fair to say that the changes that were proposed are for the new fleet.

Mr McKinley: Yes, initially new models and then, shortly afterwards, new trucks. So, there's no effect if you have a—none of these measures involve retrofitting vehicles.

Senator STERLE: No, no—and, of course, you would frighten the living daylights out of everyone if we started talking about that. I get that.

Mr McKinley: It's not even under consideration.

Senator STERLE: Where we are heading to, which we must be mindful of, is that the new fleet of whatever it is, 445,000 trucks—most of which rely on your members, once they're finished with them online, or whatever—becomes the second-hand fleet. So, of the 444,000 trucks, I'd say the greater percentage are second-hand, third-hand, fourth-hand and fifth-hand as we move down the ladder.

Mr McKinley: Trucks lead multiple lives. They are bought new, then sold second-hand, then sold again and then sold again. They are in the fleet for a very long time. That's why government—as have we—need to lean in on getting these safety measures up as early as reasonably practicable, because, every year you delay, you're bringing trucks into the fleet that will stay in the fleet for possibly 30 years.

Senator STERLE: Absolutely. As we know, our fleet is old. Let me just conclude on this, and these are the ATA's figures: what we can say is, for the cost of $112 million, that would encompass all vehicles, brand new, over 4.5 tonnes. In 35 years we've worked out, roughly, that, for a vehicle to get to ESC—and I didn't get the autonomous emergency braking costs—we're looking at probably around $1,500 per new vehicle and probably $500 per trailer?

Mr McKinley: That's right.

Senator STERLE: Then we talk about the cost of a new vehicle, bearing in mind that the hamburger with the lot, a prime mover that's going to pull three or four trailers, is going to be a lot less than an eight-tonner running some food around town for a shipping line or something like that. What would the average cost of a top-of-the-range prime mover be, roughly?

Mr McKinley: As you say, a good guess would be—

Senator STERLE: $350,000? Let's work with that, shall we?

Mr McKinley: Yes.

Senator STERLE: So we're probably talking about $1,500 to implement that on a brand-new purchase. With your members, when these vehicles are purchased, are they paid off over four years, five years, six years? What's the go?

Mr McKinley: The cost, particularly if the truck is leased, would not be noticeable in many cases.

Senator STERLE: Of course not.

Mr McKinley: It would be noticeable at the lower end, perhaps, but not at the higher end.

Senator STERLE: So, without being a smarty, if it's over four years and $1,500, we're certainly not arguing over $375 a year, are we? Please tell me we're not.

Mr McKinley: It's not a major cost, and the safety benefits, including for the driver of the truck, are proven and they are there. This isn't a speculative technology. We know it works.

Senator STERLE: For those listening out there—and we might have a difference of opinion with the department or whatever—when we talk about $500 per trailer, what is the price range? What do trailers cost? Let's go from a flat-top right up to a freezer, a car carrier, or whatever. I don't care. Give us a range.

Mr McKinley: I would have to take that question on notice. But, again, the cost is very small compared to the overall cost of the asset.

Senator STERLE: Absolutely—$500 per trailer is peanuts. We spill more than that in coffee in Senate estimates.

CHAIR: Speak for yourself! Mr McKinley, are there any other burning issues you'd like to bring to the attention of the committee?

Mr McKinley: Just to thank the committee for your time.

CHAIR: As we talk to the department, if you and your partners contemplate any, if there are any fresh or additional thoughts you have, feel free to write to the committee, and we'll table them at our meetings and take them into account.

Mr McKinley: Thank you very much.

CHAIR: We thank you for your preparation and we wish you all the best for a safe journey back to your intended destination.

BOBBERMEN, Mr David, Safety Program Manager, Austroads

NEELAGAMA, Mr Isuru, Manager, Intergovernmental Relations, National Heavy Vehicle Regulator

NYAKUENGAMA, Ms Sharon, General Manager, Vehicle Safety Standards Branch, Department of Infrastructure, Regional Development and Cities

SPENCE, Ms Pip, Deputy Secretary, Transport, Department of Infrastructure, Regional Development and Cities

SQUIRE, Mr Matthew, Director, National Heavy Vehicle and Rail Regulation, Department of Infrastructure, Regional Development and Cities

TUCKER, Ms Sue, Senior Director, Vehicle Safety Standards Branch, Senior Director, Vehicle Safety Standards Branch

WERNER, Ms Stephanie, Acting Executive Director, Surface Transport Policy Division, Department of Infrastructure, Regional Development and Cities

*Evidence from Mr Bobbermen was taken via teleconference—*

[17:42]

CHAIR: Welcome. I'm going to take point here, with the consent of my colleague. Ms Spence, can I, through you, encourage the officers to listen very carefully to the specific, plain-English burden of the question. You're a very experienced witness before estimates. We've got some experience in probing. We will drill down if we need to, so long, filibuster answers are not what we're looking for today. Firstly, just to set the parameters, I'm given to understand that the expert within the department is, unfortunately, overseas at the moment?

Ms Spence: He just returned late yesterday, so he's not available; I'm sorry.

CHAIR: So, it's not practical for him to come. We get that. He would be a technical expert?

Ms Spence: Yes. So, in relation to matters relating to the ADRs and the technical detail underpinning those, while Sharon will be able to answer some questions, if you want to go into a forensic level of detail, we will, unfortunately, need to take those on notice.

CHAIR: Alright. But it would seem—this is not the appropriate way to examine this, but let me have a crack—that we are all of a mind that there is no resistance to the introduction of this technology. It works, and does what it's supposed to do. We're all on the same page about that. The question might be about what categories of vehicles the technology applies to. So it might be quicker for us to identify the categories of vehicles that it is not going to apply to rather than the ones that it does apply to. Is anyone here equipped to talk about that? I'm sorry, Ms Spence, I should have asked you whether you wanted to make an opening statement.

Ms Spence: We do have an opening statement prepared; it is about three minutes long. I'm conscious that it is the end of the day, but if you are comfortable—

CHAIR: If you think it sets the scene, let's do that.

Ms Spence: It is just to give a bit of context.

Ms Spence: Australia has a comprehensive work program for the development of national standards for new vehicles—the Australian Design Rules. The ADR program contributes substantially to Australia's improving road safety, and the risk of death or serious injury in a car crash is now half of what it was 20 years ago. Under the 2015-17 National Road Safety Action Plan, the Commonwealth fully achieved its commitments by mandating pole side impact protection for light vehicles, anti-lock braking systems for motorcycles and electronic stability control for heavy vehicles. The overall estimated benefits provided by these three measures over the next 15 years is more than 850 lives saved, with net benefits of over $2.2 billion.

The ADRs are increasingly harmonised with the international standards developed through the United Nations. Regulations based on internationally agreed standards provide Australian consumers with access to the safest vehicles from the global market at the lowest possible cost. Internationally, Australia leads on the implementation of some safety regulations, such as pole side impact, but follows on others, and no country leads on all regulations. Differences in implementation, including the timing, vary between countries due to factors such as road safety trends domestically, the fleet and market characteristics.

Australia's primary ADR development priority under the current action plan is autonomous emergency braking for both heavy vehicles and light vehicles. AB is a promising vehicle safety technology that automatically brakes a vehicle when likely collision with vehicles or other road users is detected. More detailed research into the benefits of AB in Australia is in progress now, with a focus on heavy vehicle AB initially. This new research will include up-to-date Australia-specific road trauma statistics and effectiveness data. The Commonwealth is committed to the implementation of effective evidence based safety technologies under the National Road Safety Strategy, and prioritising AB will significantly progress the road trauma reductions achieved to date under the Commonwealth's ADR work program.

CHAIR: Thank you. Let's break the vehicles into two categories. We will call the category where we are agreed we will implement this technology category A and we will call the category where it is perhaps not going to be introduced category B, and we will talk about them separately. Somewhere, I assume, we are working towards the introduction of AEB technology to new vehicles in the category 1 area. Is that a fair comment?

Ms Nyakuengama: We are working across all categories of vehicles, light and heavy, for automated emergency braking.

CHAIR: Let's pretend there are one million trucks in this nation. There is a category of those trucks—I have no idea how many, and I suspect that you don't either—that you have already made up your mind will qualify for autonomous emergency braking. We have heard evidence today from the Trucking Association that there is a category for which you are not inclined towards recommending the implementation of automated emergency braking. Is the evidence they have provided, and briefed us on privately, not correct? At the moment, have you not made your mind up about any single category of trucks? We are just muddling along and having a look at it—is that what's happening?

Ms Spence: I'm assuming you are working on the basis that certain categories of trucks have been excluded from ESC. The ESC requirements will be reconsidered for rigid vehicles as part of the work we are doing on AEB. Essentially, it will open up for all vehicles—

CHAIR: Ms Spence, could you and I go down to the main intersection in Canberra and sit on a couple of fold-out chairs. I will say, 'What about that one and that one and that one?' Could you, or your experts, say, 'Yes, yes, yes, don't know yet, yes, yes, don't know yet?'

Ms Spence: Not on AEBs. There would be people in the department who could say which ones ESC is being mandated for. But what we are saying is there's no point in doing AEB without ESC. So, to make a sensible decision on AEB, we may need to make ESC mandatory for a broader—

CHAIR: When do you think we will wander out of the fold?

Ms Nyakuengama: We are currently preparing the consultation regulatory impact statement, which will use that research data that I just talked about. We expect to have public consultation on that in the first quarter of 2019.

Senator STERLE: I want to go to Mr McKinley's evidence. We are talking about ESC, not AEB. Someone from the department of infrastructure said you would only mandate it for prime movers.

Ms Spence: That's correct.

Ms Nyakuengama: And heavy trailers. For ESC, those ADRs have been executed. They are on the legislation register. They will come into effect on—

Senator STERLE: What does that all mean in English—that you realise you got it wrong?

Ms Nyakuengama: No. We did the regulation impact statement for ESC for heavy vehicles and consulted on that over the course of 2017. That consultation identified that there was industry preference for not our preferred option. The recommended option—not the preferred option—was that which delivered the greatest net benefit, which is what is required under the government's regulation impact statement policies.

CHAIR: I want to get to the bottom of why they formed that view. Let's go to the ESC. You have been through the whole consultation process. Industry had ample chance to have input. You disagreed, perhaps, on some of the decisions that you proceeded with eventually—whether they are just yours or yours modified—and they are now part of the Australian design rules. Is that a fair statement?

Ms Nyakuengama: We did not disagree. We were unable to recommend an option that included ESC on rigid heavy vehicles because of—

CHAIR: They wanted it.

Ms Nyakuengama: Yes.

CHAIR: You didn't proceed with it. I'm going to put that into the disagreement basket, but let's not spend time on it. For the purposes of this exercise let's pretend there are only 10 of those vehicles in the nation under ESC, and five of them are now subject to Australian design rules around ESC and five of them are not. I am interested in the five of them that are not. Is it correct to say that your school of thinking in relation to those five was governed by some sort of cost-benefit analysis?

Ms Nyakuengama: That's correct.

CHAIR: To me, it is a conflict to have 'cost-benefit analysis' in the same sentence as 'safety initiative'—where there is a prospect of a death.

Senator STERLE: Absolutely.

CHAIR: You were able to quote—and I can't remember whether it was AEB or ESC, because I'm not a truckie—what you thought might be the saving of lives with respect to the introduction of ESC.

Ms Nyakuengama: That's correct.

Senator STERLE: AEB.

CHAIR: No, the witness has just confirmed ESC.

Ms Nyakuengama: ESC.

CHAIR: Given that you have done that work, how many other lives were taken by trucks that are not now mandated?

You say, 'We've mandated. There are the Australian Design Rules with the ESC. We believe that the number of mandated trucks who used to run people over won't run them over with this technology,' and that number is 450 people or something. If you've done that work you must know how many people were run over by the second category of trucks to where the safety is not going to apply or this ESC? Do you have that number?

Ms Nyakuengama: The option that was chosen, which delivered the greatest net cost-benefit was projected to save 126 lives over 15 years of regulation.

CHAIR: To get to that figure you must have said, 'Two-hundred lives lost. I'll put them under each of the categories of trucks. If we mandate it for these trucks and it works then those lives would not have been lost.' What's the number that still remain out of the total fatality number that you looked at to be able to arrive at number 126?

Ms Nyakuengama: These deaths were related to truck rollovers. You looked at the specific crash type that the technology is aimed to assist in. So ESC is specifically targeted at rollover and loss of control type crashes. Prime movers and articulated vehicles are more prone to rollover and loss of control.

CHAIR: Understood, yes.

Ms Nyakuengama: So the rigid—

CHAIR: But it doesn't mean that the rigids are not.

Ms Nyakuengama: Yes, I agree.

CHAIR: We'll get to the tricky bit in a minute. You must know the answer to this question: how many rollover deaths occurred with the rigids? We know 126 are now with the articulated but how many with the rigids?

Ms Nyakuengama: I guess over the same 15-year period of regulation it would have added another 22 to the reduction.

CHAIR: So what you are saying is that the risk profile for deaths with the rigids is much less?

Ms Nyakuengama: That's correct.

CHAIR: Would the ESC technology have—if it's fair enough to tick off 126 with the articulated ought it not be the case that that would have the same impact on the 22? Or are you suggesting that the ESC technology doesn't provide the same sort of closing, if you like, the safety gap on heavy rigids as it does on the articulated?

Ms Nyakuengama: That's correct, because the number of crashes in that type in the rigid is less.

CHAIR: I understand that, but that wasn't the burden of my question. Listen one more time. You've assumed that had ESC been on articulated vehicles over a period of time there would be 126 people who may be alive today. Those vehicles would not have rolled over?

Ms Nyakuengama: Yes.

CHAIR: Let's apply that same test, if you like, to heavy rigids where there are 22 deaths from rollovers. Had the technology been applied for the same period of time that you'd done the survey of the heavy rigids would we have 22 more souls with us on the same principle—even stevens?

Ms Nyakuengama: Yes.

CHAIR: As you went through the consultation process for the ESC the industry has given evidence that they said to you, 'We're happy. We'll meet it on the chin.' That's what at least that body of industry people—and I'm not sure the parameters of that. You heard me interrogate the witness. Was that the general feed in you got or were you getting feed in that said, 'Hey, we don't want to meet the cost of this with the heavy rigids'?

Ms Nyakuengama: Across the board the favour was to include the heavy rigids.

CHAIR: Here we've got the people impacted by the cost impost. You consulted them. You said, 'What do you think about this?' They said, 'Yes, we're for it and we'll pay for it.' Then for some reason—and this will come to the pointy end of our questioning—you've then decided not to do that, right? You've decided to say, 'We're going to exempt heavy rigids. We'll grandfather them out of the system.' I promise you that we will come to interrogating the cost-benefit analysis process on 22 lives, but is that a fair assessment of what happened?

Ms Nyakuengama: After the consultation, yes, under the regulatory impact assessment rules and policy we were unable to recommend an option. We're not allowed to recommend an option that doesn't deliver the greatest net benefit. We adjusted the options to include some rigid vehicles, those based on the same truck base as prime movers, so we could get some in there and maintain the net ratio.

CHAIR: So there are a set of rules over here that guide agencies around cost-benefit analysis. When you ran your finger down the line, left and right and around the corner, it prevented you from being able to recommend the addition of ESC on certain vehicles under examination.

Ms Nyakuengama: That's correct.

CHAIR: Do you know how many articulated vehicles exist, versus the heavy rigids?

Ms Nyakuengama: I'd have to look that up.

CHAIR: But you'd know. I imagine the Heavy Vehicle Regulator would—

Senator STERLE: Can I just clarify we're talking about the evidence of the ATA, which was that it was anything over 4.5 tonnes, so not just heavy rigids and rigids.

CHAIR: I'm trying to look at how many fatalities there are, versus articulated vehicles—

Senator STERLE: But they didn't break it up into the heavy rigids, just for the terminology. So if someone doesn't ring in and say—

CHAIR: All right. In the two cohorts—those exempted from the design rules versus those not exempted from the design rules—do we have any sense of how many vehicles would have been impacted by this change to the Australian Design Rules?

Ms Nyakuengama: We'd have to take that on notice.

CHAIR: Could you take that on notice?

Ms Nyakuengama: Yes.

CHAIR: Let's go to this cost-benefit analysis. What was it about the rules or the framework or the architecture of the rules around what you had to consider that somehow took 22 lives, on the same principle that we're arguing with the others. What is it that says to you, 'That impedes my ability to recommend regulatory change around that cohort of vehicles'?

Ms Spence: Essentially, under the cost-benefit analysis, if you required all rigid vehicles to be fitted with ESC, that would have doubled the total regulatory burden for the reduction of the 22 lives.

CHAIR: Doubled it from what to what, Ms Spence?

Ms Nyakuengama: I think it was in the order of $200 million. I'd have to check.

CHAIR: I want individual cases. You must have a sense of individual cases. You heard evidence from the Australian transport authority.

Ms Spence: The figures that we've got are on the impact as a whole. We'd have to come back to you on notice for individual vehicles. We looked at the sector as a whole.

Ms Nyakuengama: It would have projected the number of new vehicle sales over that period of 15 years and the penetration into the fleet of vehicles fitted with that—

CHAIR: And you'll take that on notice?

Ms Nyakuengama: Yes.

CHAIR: That's the figure that I wanted before.

Ms Nyakuengama: That is in the regulation.

CHAIR: If you listened to the transport association—

Senator STERLE: Australian Trucking Association.

CHAIR: they indicated the cost was—was that on the ESC or the AEB?

Ms Nyakuengama: That was on ESC.

CHAIR: They were talking of how much?

Ms Spence: Fifteen hundred, I think.

CHAIR: It may mean that, on the heavy rigids, because there are so few of them, it wasn't just a case of doubling the burden and taking them from $1,500 to $3,000. It may well have meant that they would have gone to $7,000 per vehicle or something.

Ms Nyakuengama: I don't know that it's per vehicle; it's across the fleet. The total burden of the measure was doubled, not doubled on those vehicles.

CHAIR: I appreciate that.

Ms Nyakuengama: Because the number of crashes involving rollovers that involve injuries in that sector of that category is less than in—

CHAIR: So the 126 are deaths. Do you have the stats with you on the injuries?

Ms Nyakuengama: No, I don't, sorry.

CHAIR: Do you have the stats with you on the number of events?

Ms Nyakuengama: That will be in the regulation. It's not with me.

CHAIR: Next time you should probably anticipate what line of questioning we may be going to pursue. It will save you coming back, because you will be back.

Ms Spence: Yes.

CHAIR: Senator Sterle, I don't think that I can take this much further. As you often hear me say, this is like wandering around in the middle of the night trying to find a light switch because we don't have some of the base stats.

Senator STERLE: Sure.

CHAIR: So we're going to get you back, Ms Spence, and we'll try to coordinate it to work with your expert because we haven't even gotten to that side of it. And I'm going to give you a quick look now at the sorts of things we want to know. We want to know how the progress of the consideration around AEB is going. We'd like you to have at your disposal all the data, both quantitative and qualitative, that you're considering as you decide what happens with the advancement of AEB.

Ms Nyakuengama: That's currently being developed for AEB. We keep going backwards and forwards, mixing ESC and AEB.

CHAIR: No, I asked you specifically about AEB. You're saying that's a work in progress?

Ms Nyakuengama: That's correct.

Ms Spence: We can certainly run you through—

Ms Nyakuengama: That's what happening in the RIS—

CHAIR: No, we don't want to see partial stuff because we'll all just form a view and we might not be entitled to. We get that. You're saying that, in the first quarter of next year, you're hoping you might be able to sit with us and have some more solid parameters around that?

Ms Nyakuengama: Yes.

CHAIR: All right. We're in agreement that the AEB is a work in progress—a consultation process—and we will deal with that next year.

Senator STERLE: Yes.

CHAIR: The ESC: I don't want to do the A to Z, otherwise you will end up with heavy rigid trucks driving in here, tipping up tens of thousands of documents, but you feel the line of questioning we're making so come equipped. That's all I ask you to do. We're not in contest here. We understand that there are certain guidelines that have inhibited some other impulse to do something with the ESC. It may be that you went, 'Gee, it's a pity that guideline is there because, if it wasn't there, we may have done something.' The real burden of this is that I can't put a price on a life. I just can't.

Senator STERLE: Me too.

Ms Spence: Yes.

CHAIR: Industry seems to think that it doesn't want to put a price on a life. So I want to know things like the mathematics. When it's doubled, what does that mean? Does it mean that Fred went from having to pay $1,500 to $15,000? That's the sort of stuff that we want from the department if we can. And if you need to clarify anything, Ms Spence—when your people sit down to prep to come back to us, you are welcome to ring Senator Sterle and me via the secretariat, and we will help you arrive there. We're not trying to find someone out; we're trying to get to the bottom of the process.

Ms Spence: We are sorry we didn't have—

CHAIR: That's all right. It's complex.

Ms Spence: And it was unfortunate timing.

CHAIR: At the bottom of this, we may have to change the guidelines on cost-benefit analysis when it impacts on the lives of people. That may be the objective out the back end of this—or recommend the changes. Senator Sterle, I don't think we can go much further.

Senator STERLE: No. I just want to add something, through you, Ms Spence. We'd like to know who you're consulting, because it's important for Senator O'Sullivan and I, not only to the 22 lives that could have been saved if ESC had been available on these rigid vehicles. We were told—I didn't get the number from Mr McKinley—there have been 300-plus serious injuries, including road trauma and whatever, and we haven't discussed that yet, so we want to know who's saying no, why and who they are.

Ms Spence: Of course.

Senator STERLE: Bearing in mind, we know prime movers seem to fall over more out there because they're out in the bush, but that could be because of road conditions—ice or I don't know. Let's not assume it's always the truck driver's fault; let's find out.

CHAIR: Parliament sits for two weeks the week after this, and it's within those two weeks that we'd like to do this. We don't want this to wait until February or anything. And we will take you back partially prepared if the task turns out to be bigger. We'd like to get our heads around this. If you, Ms Spence, could personally keep dealing with the secretary, Dr Thomson, and we will see if we can pull a date together in the next few weeks.

Ms Spence: Yes.

CHAIR: On the road trains—again, I'm no expert—when the trucking leaders association came to see me the other day, they said that, out in the never-never, if you've got multiple trailers, the application of the new technology—the AEB, I think; they may have been talking about DSC—can make it more dangerous. I'll get them together with you on that.

On a completely different subject, in the period between January 2000 and October 2016, in Victoria alone, 80 pedestrians died as a result of injuries sustained in collisions involving trucks and heavy vehicles. In 18 out of 42 deaths, the driver had impeded visibility of the pedestrian. If we were to extrapolate that across the country, we're having a lot of deaths here and it seems that we could at least mitigate the circumstance with some technologies. When the vehicle is going backwards, we hear the old beep, beep, beep—there's no mistake. Why couldn't a vehicle, particularly operating in built-up areas or on job sites, that's moving forwards for a period of time—maybe the first five or 10 seconds, something of that nature—have an audible alarm until it gets to a certain pace, if you like, similar to the reversing alarm? Is there a reason why that can't be considered?

Ms Nyakuengama: It can be considered in a range of different safety features that can be applied to vehicles.

CHAIR: Side sensors would suggest if someone were in touch with the side of the vehicle—a bit like my car has when I'm reversing out the gate. But that won't help you, I would have thought, if you are in front of the vehicle. The coroner has recommended front warning sensors and side sensors be installed during manufacture. We've written to the minister, who has come back and said the recommendations by the coroner—let's be clear about it—were for front sensors and side sensors. They make a beeping sound. To me as a layperson, that works when the vehicle is going backwards. I am now going to be keenly interested in why you don't think it will work with the vehicle going forwards. It would be an audible alarm that a pedestrian can hear, that they can recognise to be a truck in a forward or reverse motion—to bring their awareness.

Ms Nyakuengama: I didn't understand that to be an audible alarm for the pedestrian but to be a sensor and an alarm for the driver to be alert to the pedestrian—

CHAIR: Either way—it doesn't matter.

Ms Nyakuengama: We understand the two Victorian cases both involved stationary vehicles moving off at slow speed and pedestrians walking in front of them at that time. One involved a fully laden vehicle and an unlicensed driver. So there were a number of factors. However, there are no international regulations or standards that relate to pedestrian warning sensors or detection systems, and nothing is commonly available at the moment. Notwithstanding that, the coroner's intentions are—

CHAIR: Except in my car that I drive every day of the week, so you can't tell me the technology is not there— I've got it now and I've had it for probably seven or eight years. In vehicles, when I'm backing out and I near an object, it sets an alarm off in my car. Now it's on the sides and the front. So the technology is there.

Ms Nyakuengama: Yes, mine as well. But, if a pedestrian moves out in front of a moving-off heavy vehicle, its momentum makes it—

CHAIR: Why do you think they do that? 'Oh, hello—there's a moving truck; I'll step in front of it.' Do you think that's on their mind?

Ms Nyakuengama: No.

CHAIR: Maybe they don't know the truck is about to start moving—

Ms Nyakuengama: That's correct.

CHAIR: They're nipping through. You don't think an alarm would—

Senator STERLE: Inside the cabin.

CHAIR: I know what it would do for me.

Ms Nyakuengama: Inside the cabin, yes.

Senator STERLE: The technology is there.

CHAIR: The technology is there. You don't think an alarm inside the cabin would cause the driver to stop?

Ms Nyakuengama: It would. It may, yes.

CHAIR: What do you mean 'it may'? I hear an alarm going off indicating I'm going to run over a pedestrian, so I'll give a bit of thought as to whether I'll hit the brake or not?

Ms Spence: You might hit the brake, but whether the vehicle would—

Ms Nyakuengama: Stop in time—

Ms Spence: stop quickly enough.

CHAIR: If my uncle wore a skirt he'd be my aunty, Ms Spence. I'll tell you what: this committee has been exercised about these things before. I will give you a dozen people to ring if you want to know how we react when it seems like there's not reasonable and sensible attention being paid to something. So, Ms Spence, I will ask you to have a pretty serious look at the environment of the available technology in relation to this coroner's recommendations, not just on sensors that set an alarm off inside the cab but the ones that set an alarm off outside. Let me ask this: why do we put an alarm on a truck that's backing up? It makes a beeping noise. Why do we do that? It's a serious question. I'll tell you why we do it. We do it to alert any work man or work woman around the site that a truck's backing up. We've got them on bobcats and on forklifts—we've got them on everything. By the time you come back, you'd better be ready to tell me why, if it works going backwards at a slow rate, it won't work going forwards at a slow rate.

Ms Spence: We'll look at that and we'll also look at the technology that's available.

CHAIR: If you're having a problem, give CASA a ring and ask them what happens with this committee if they ignore the reasonable questions around safety. If they won't give you an answer, give the Australian Beef Association a ring. If they don't want to work with you, I'll give you a list of about a dozen who've pissed us off over time. I'm not suggesting that we're at that point. But I'm not going to accept an argument that some sort of sensor in the cab won't cause someone to attempt to terminate the movement of that vehicle. I'm not going to cop it.

Ms Spence: As I said, we'll certainly look at the technology.

Senator STERLE: And let me help you out. Don't be fooled by anyone trying to give you advice. These heavy vehicles don't do the mile in about eight seconds; it takes them a while to get up and get a head full of steam.

CHAIR: If we can do that knowing what we're thinking. It may be you can come back to us and say, 'You know what, we've decided to have a much closer look at this. It will require some time, it will require some effort and it will require some trials,' and I think you will find a compliant committee with respect to that.

Ms Spence: We could certainly tell you the sorts of things that we are doing in this space. But I certainly understand your frustration about the other issues.

CHAIR: I'm guided by the coroner. They've listened to all the evidence of these events. They know what happened and they've made a recommendation. I think we at least need to give it a good cost-benefit analysis before we say no to it. And the minister's letter suggested that this is at an end, guided by what the department's advice to the minister was. I'd be surprised if you didn't actually prep the letter.

Thank you, Ms Spence and everybody. I know it's not always a most pleasant interaction with these things, but we are serious people, all of us, wanting to get some serious answers about serious matters. Thank you for your attendance and preparation. We look forward to getting together sometime in the next 2½ weeks with the secretariat, if that's at all possible.

**Committee adjourned at** **18:19**