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1 June 2020

Frank Arcidiaco
[REDACTED]

By email: [REDACTED]

Dear Mr Arcidiaco

Re: Pricing comments in relation to truck owner-drivers

I am writing to advise you of concerns the Australian Competition and Consumer Commission (ACCC) has in relation to the pricing of truck services from owner-drivers. In particular we refer to an article you authored in the Owner Driver publication, titled 'Opinion: Maintain your rates', dated 16 April 2020 (the **Article**).

In the Article you made statements that could give rise to allegations that you attempted to fix prices with other owner-drivers. Potentially problematic paragraphs from the Article include:

- *What does concern me is the cheap freight being offered by people taking advantage of the situation. This is no time for bottom feeders to seek to profit at the expense of others. We can't afford for rates to be lowered anywhere in the industry.*
- *In harder times, it's more important than ever for us to stick together and stand strong. We all feel the calling of our personal financial needs but undercutting each other to win work will only do harm to us all.*

The ACCC has not formed any concluded views about this issue, but has concerns about the Article and whether the conduct is more wide reaching. The Article raises concerns that you may have attempted to form arrangements or reach understandings with the purpose of fixing, controlling or maintaining prices. If such conduct has occurred, or is occurring, it may constitute a breach of the *Competition and Consumer Act 2010* (Cth) (CCA), including the cartel provisions.

The ACCC is highly conscious of the impact COVID-19 is having on Australian consumers and businesses. Maintaining competition in the long term will be critical to benefit both consumers and the economy. A competitive economy will be vital to Australia's future.

Contravention of the cartel provisions of the CCA is a criminal offence and carries serious criminal and civil penalties, including up to **10 years in jail for individuals**, and heavy pecuniary penalties for corporations.

The ACCC will continue to monitor attempts to form arrangements or reach understandings with the purpose of fixing, controlling or maintaining prices.

Please feel free to contact me on [REDACTED] if you wish to discuss this letter.

Yours sincerely

[REDACTED]

Catherine Pavey
Director
Cartels



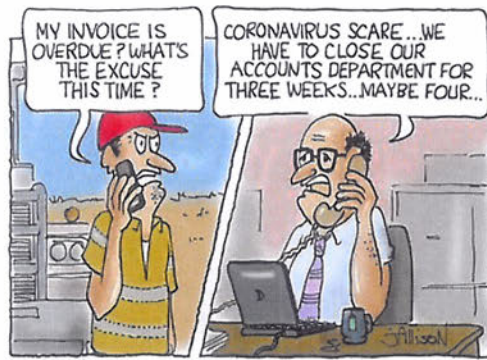
OPINION: MAINTAIN YOUR RATES

By: Frank Black

Date: 16.04.2020

Owner-drivers are feeling the pinch as the coronavirus takes its toll on the road industry

It's been the topic on everyone's lips – toilet paper. So let's talk about it. If you're a company driver operating out of transport hub Millicent, you're probably pretty happy right now. Demand couldn't be greater, you're flat out carting the stuff and when you pull up to Woolworths with a truck load of soft white paper you're everybody's hero.



Hold onto your rates, and your rights

As we grapple with a new COVID-19 pandemic, many people are driven by fear; it's what's keeping the Kimberley-Clark mill in such high profits. While I don't fully understand the prioritising of toilet paper storage, I can appreciate the growing concerns of owner-drivers worried about losing work.

As I write this, the extent of the damage this will cause to the transport industry is unknown. What we do know is that this is far from over, and the industry isn't starting off from a strong position with the viability of trucking called into question all the time.

The industry has and will continue to take a hit for as long as this virus is spreading. Reports from some wharves are that only two of 10 ships are arriving from China, causing a huge decline in demand for truckies operating out of the ports and a flow-on effect for most of us.

UNSUSTAINABLE OUTGOINGS

I've spoken to many owner-drivers who are already making bleak calculations about how long they can sustain their outgoings when they're struggling to pick up work.

When the industry is in trouble, owner-drivers traditionally lose out first. It's expected – common sense tells us that if companies have their own equipment and workers to pay for, they'll put them to work before outsourcing.

It's no surprise when our trips get cancelled so an employee can pick up the work, but that doesn't make it any less concerning. It's a risk we all decided to take when we set out on our own. We knew our jobs would be precarious.

Many of us are hanging in there, and probably like me, owner-drivers are saying yes to work whenever it's offered to make sure we have a buffer in tougher times. It's not ideal; we must still find ways to manage fatigue and, for example, I am unfortunately

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Sacrificing our rest days and family life now is necessary to help keep the wheels turning in an attempt to ensure our business survives in a few months' time.

This is no long-term solution but it's all a part of being your own boss.

What does concern me is the cheap freight being offered by people taking advantage of the situation. This is no time for bottom feeders to seek to profit at the expense of others. We can't afford for rates to be lowered anywhere in the industry.

All that will happen if we undersell our work is that we all end up going bust. The only difference between drivers will be that those who refuse to do a run for no profit won't have run our trucks into the ground in the process and may have something worth selling.

In harder times, it's more important than ever for us to stick together and stand strong. We all feel the calling of our personal financial needs but undercutting each other to win work will only do harm to us all.

GOVERNMENT SUPPORT NEEDED

Senator Glenn Sterle recently spoke at the Victorian Transport Association State Conference calling on the industry to unite over common ground so that we can put pressure on the government to take action. We need support from the government to ensure our industry survives this; we have been given our common ground, now is the time to unite.

While the economy is volatile, the Federal Government is called upon to hold us up. What we know about this government is that it peddles the myth of trickle-down economics. If this system worked, those of us at the bottom of the supply chain wouldn't be losing sleep over being able to stay afloat for a few tough months.

We need to set our differences aside and come together to put pressure on the government to ensure money injected into this crisis reaches us, and that means holding the clients at the top to account for paying their fair share.

We've seen what happens when desperate people try to look after themselves at the expense of others; police called to fights in toilet paper aisles. Let's not allow this to happen to our industry by flushing our rates down the toilet.



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