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Local & Interstate

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Committee Secretary,
Senate Committee on Rural and Regional
Affairs and Transport,
Parliament House,
Canberra.

Thank you for the opportunity to
submit and for considering this submission.
Before addressing the Terms of Reference, I
wish to inform you that I am the second of

three generations of my family to have spent their entire working lives as owner/small fleet operators in the industry along with siblings of both my father and myself who spent time working in the industry.

In the 46 years of participation I have had in the industry I have seen many false dawns in efforts to improve the viability of the industry, from the Razorback blockades through to the demise of the R.S.R.T and I see this enquiry as my last chance to influence effective change.

We cannot make effective change for the future without acknowledging our history.

The "can do" attitude which has always permeated our industry is at once one of our greatest assets and our biggest "achilles heels". Whenever hurdles, physical or legislative, have been thrown at us, our immediate response has been to get around them rather than over them.

Some of us will remember phantom interstate depots on border locations to overcome rail co-ordination tax. Many of today's highest profile and respected industry participants avoided their road tax commitments by

registering their equipment under the names of straw companies in South Australia. At one stage a huge swathe of the industry fleet was registered at Sandstone Ave Naracoorte. Those who could avoid the tax did so and could work cheaper and prosper. Those who couldn't, like my late father, went to jail.

In the late 1970s and 1980s, many of us know, but few will admit that overloading was rife and that log books were only a vague record of hours worked. Recently VicRoads, about 40 years too late, recognised that this type of operation was the business plan of some companies. While this conduct is less prevalent today, an examination of the history of some nowadays respected companies would shine a light into some very dark corners.

How many of us who survived in the industry in the last half of the 20th century, who are now scathing of any drug involvement in the industry, will admit to having their own co-operative doctor or chemist who could help with "weight loss" and stimulants. We justified our actions by convincing ourselves that it was what we had to do to enable us to do enough work to cover our commitments.

How many combined primary producer/transport operations today take advantage of the blurred line of tax and registration rules between the two to gain a commercial advantage.

Our industry is littered with a myriad of instances where we have sought to get around legislation and regulation rather than pass on the true cost to our customers.

Much of our involvement with industry associations and accreditation schemes is predicated by a need to circumvent regulatory cost rather than negotiate with our customer base, in an extremely competitive market place, for a fair outcome.

Left floundering at the bottom of this whirlpool, are the 33,000 (according to figures supplied by industry associations in the RSRT debacle) sub contractor and small fleet operations, who for too long have been lumbered with "that's the market, that's the price mate, take it or leave it"

TERMS OF REFERENCE

A) Enforceable minimum award rates and conditions are essential in the road transport

industry so that competition for work is not influenced by an ability to avoid legislation for a commercial advantage. No employer has ever devised an EBA with the intention of improving his employees position. It seems that the FWO is more impotent in our industry than most to effectively enforce uniform standards and have award rates apply, than in others.

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.

Rates quoted on prime contacts do not require legislation ,however it is essential that sub contract rates are legislated ,regulated and enforced. I have seen too many instances where major freight forwarders will compete on price,to manufacturers then blatantly expect the sub contractor base to find a way to carry the reduction in rate. The prime contractor retains their margin while the subbie is left to work out what corner he can cut to survive. If award and subcontract rates and conditions are regulated and enforced the advantage to

prime contractors will be the knowledge that a competitor for a contract will not be able to under quote them on the basis of cheap subcontractors.

Another area of concern is the growing number of drivers working under sham ABN's as "contractors". Not only do these arrangements compromise fair competition, the taxation avoidance disadvantages us all.

Perhaps in the long term NHVL might be the appropriate vehicle to oversee the adequate enforcement of any legislation for awards and rates.

B) The road infrastructure is the workplace of our industry and as such its development and maintenance is essential to a safe and viable road transport industry.

The way in which the industries contribution to the cost of building and maintaining the road network is spent, must be transparent.

I wonder if the amount of money currently being out laid on wire rope barriers across the nation was transferred into spending on maintaining the road surface and edges and providing suitable rest areas, a more positive safety outcome would result.

The fact that major infrastructure projects such as the Toowoomba range crossing can happen without any provision for rest or emergency stopping areas provided is simply indefensible. Major arterial roads in our capital cities are often built without any provision for rest areas with toilets at the very least and I'm sure I'm not the only truck driver or indeed motorist to have been placed in a desperate situation in traffic bottlenecks which so often occur on these roads.

Better built and maintained road infrastructure would result in less damage to vehicles, thereby reducing vehicle maintenance costs and providing the proverbial "win win" situation for both safety and viability.

An absolute priority should be an audit of the number and quality of rest areas and an unqualified commitment to bring them to a satisfactory level on both measures.

C) Legislation and regulation and the way in which they are administered and enforced are having a profound impact on our safety and viability.

I'm aware of many instances where experienced and competent drivers have

become totally confused and frustrated by the complexity of fatigue regulations and the way in which they are enforced, causing them to exit the industry early, thereby depriving us of some of our safest and most productive personal.

We desperately need consistent interpretation and enforcement of legislation and regulation with an emphasis on education as opposed to litigation.

Both legislators and regulators along with industry need to understand that there is always a cost to compliance with any new regulation and that cost and who will bear it and whether it has any unintended consequences, must always be considered before new legislation is effected.

D) Other than a drivers license for a particular class of vehicle, there is currently very little formal recognition for the level of training a truck driver has received or the level of competency he or she has achieved.

For many years the major freight forwarders and larger transport operators have failed dismally to provide appropriate practical training and have instead abdicated their

training obligations to transport industry SME's. The best practical training has always been provided by these smaller operators ,who historically have been prepared to give family and associates opportunities that they otherwise would not be able to get.

Insurance restrictions on younger drivers is often sited as a problem,however changes to OH&S legislation over the past decade or two have restricted the chances for young potential operators to gain experience in correct load placement and restraint while being under the supervision of an experienced operator.

The positions vacant column of any industry,regional or major city newspaper,masquerades as a poaching exercise for the major employers who fail to accept their responsibility to train,then bemoan the lack of willing participants.

To attract a younger demographic to our industry we need to provide them with a structured career path which results in a recognised practical qualification. They then need to have the guarantee that their efforts will be rewarded with a structured ,enforceable award system.

Perhaps to protect those entities willing to undertake the training of new industry participants some form of indenture or HECS scheme could be considered.

E) The sad reality is that most of us have been at some stage been touched by road trauma and death and by the sheer volume of time spent on the road by the average transport operation, the chance of being involved in some type of road trauma is above average. Regardless of fault or cause, road accidents always result in significant financial cost as well as the social and community cost of injuries and premature death.

While as an industry we must all accept responsibility to operate as safely as possible it must not go unnoticed, that in the majority of accidents between heavy vehicles and other classes of vehicle, the other vehicle is more often at fault.

We must also point out the instances, where some poor troubled soul has used a collision with a truck, as a method to exit their problems.

More often than not there is little in the way of counselling offered to truck drivers involved

in road trauma.

When a vehicle is damaged in an accident a defect notice is automatically issued. Perhaps when an accident involves an injury or death the driver could be defected until appropriate and proportional counselling is completed.

I recently became aware of a study undertaken by Dr Sarah Jones, General Manager, Safety and Compliance at the Toll Group. The study examined 147 fatalities in 127 accidents over a 10 year period. No body would be surprised that in 77 percent of accidents the Toll operator was found to be not at fault. The figure that was absolutely astounding, however was that in 70 percent of all fatalities involving Toll, the driver was a contractor.

What was ever more troubling was the conclusion that Toll contractors die at a rate 3 times higher than Toll employees.

It would not be unreasonable to suspect that the same numbers would be reflected across the major freight forwarders. It is also not unreasonable to wonder if better remuneration to Toll and other contractors would have some effect in altering this alarming statistic.

My cynical self worries that this study will

lead to a knee jerk reaction, in which their legal departments will impose another myriad of hoops and hurdles for their subcontractors to jump through in a huge posterior covering exercise.

F) One area where the industry has failed to instigate proper cost recovery measures is in the area of delays caused by inefficient DC's and freight receival and despatch points. Some freight forwarders and prime contractors are reluctant to impose a charge for time lost, due to competitive restraints while some will charge but fail to pass that income onto their subcontractors.

This area is the source of much angst for SME's who are left to deal with factors completely beyond their control.

These delays which should be subject to and controlled by COR legislation, often encourage the worst safety outcomes when desperate subcontractors try to recover from the lost earning opportunity's by whatever means they can conjure. One thing of which I am sure is if a charge was imposed to reflect the lost time for both personnel and equipment, the delays would cease shortly

after the first invoices were issued.

Subcontractors and owner/drivers have little scope to recover from the constant upward pressures in fuel prices. While most prime contractors build fuel levies into their pricing very few actually pass these levies on leaving their subcontractors rates to stagnate and again encouraging the sort of actions that leave them vulnerable in a COR situation. I'm aware of one of our industries highest profile operators who at current near record fuel prices are actually imposing a negative fuel levy on their subcontractors, that is a reduction in the rate paid because fuel is apparently still inexpensive????

At the Industry Standards Forum in Canberra on 7th August ,Mr Hugh McMaster from ARTIO suggested that the COR needed to be extended to include an Economic COR and I have to say I totally agree.

G) Technological advances in vehicle design in recent decades have greatly improved working conditions within the industry. Most vehicles are air conditioned ,bunk air conditioning is becoming more common,high quality portable refrigerators are common

however we risk trying to compensate for poor training and ability, by an over reliance on technology to compensate.

Auto transmissions now dominate within certain manufacturers and fleets and auto braking and lane change alerts are all readily available but to me it seems to be overcompensating for our reluctance to sufficiently train new industry entrants.

Expecting drivers to operate at the extremes of fatigue regulation and then requiring fatigue monitoring technology seems to me to be regressive in the extreme.

H) To enable the transport industry to remain viable and "nimble and agile " as is the Prime Ministers catch phrase, we must be able to engage with all levels of government in Australia.

We need to be able to involve ourselves with local government on the matters that they control such as access and parking.

We desperately need an independent body that can examine circumstances where a doubtful defect notice has been issued or when the NSW Safety Cam System issues breaches for fatigue for example, without ascertaining if a

vehicle is operating under any accreditation scheme.

Whenever a review of a breach is sought from any State policing or road authority the standard reply is " come to court". That option should only be proffered only after a thorough review by an independent body.

On a positive note it appears to me that the NHVR is trying to liaise with all levels of industry, including those at the coal face and we should avail ourselves with every opportunity to engage.

I) It is my belief, and I would appreciate the enquiry examining, whether with a few exceptions, such as livestock and rural and remote transport, whether an oligopoly situation exists over much of the manufacturing and retail transport in Australia.

While the consumer may not be directly disadvantaged by anti competitive action , their subcontractor suppliers are continually held to ransom. Often the major freight forwarders will win contracts with the intent of committing little ,if any company owned equipment to the task, being content to dominate market share and utilise the

dominance held over their subcontractors. All these actions are covered by a veneer of responsibility which requires subcontractors to be subjected to extreme levels of compliance, providing evidence of vehicle registration and insurance, drivers licenses and details, accreditation details, maintenance records and complicated trip plans with threats of payment delays for non compliance.

These companies are prepared to spend a fortune on posterior covering, bovine manure from their favourite legal adviser without ever considering that an increase to the subcontractors "income " would lead to a better "outcome."

"It was disappointing to hear that this enquiry was opposed in some quarters, but as has been the case in some recent Royal Commissions, namely, Child Abuse and the Banks, those with most to fear and most to lose provided the strongest opposition.

Finally, I hope that this industry never allows itself to again be divided along ideology and political lines as it was at Easter 2016.

Thanks for your consideration,
Chris Roe.

Yarrawonga. Vic.

Chris Roe

Sent from my iPad