



Australian Road Transport
Industrial Organisation
ABN: 63 734 697 902

AUSTRALIAN ROAD TRANSPORT INDUSTRIAL ORGANISATION

Respect, Respond and Represent

11 November 2019

By email: rrat.sen@aph.gov.au

Committee Secretary

Senate Standing Committee on Rural and Regional Affairs and Transport

PO Box 6100

Parliament House

Canberra ACT 2600

**Re: Submission by the Australian Road Transport Industrial Organization (ARTIO) to the
Rural and Regional Affairs and Transport References Committee Inquiry into the Importance
of a Viable, Safe, Sustainable and Efficient Road Transport Industry**

Please find attached ARTIO's submission to this Inquiry. Please be advised that ARTIO would be keen to participate in any public hearings where it would appreciate the opportunity to expand on matters raised in its submission.

Yours faithfully

Peter Anderson

Secretary/Treasurer

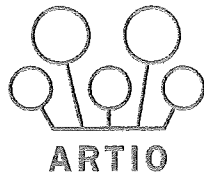
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Respect, Respond and Represent

AUSTRALIAN ROAD TRANSPORT INDUSTRIAL ORGANISATION (ARTIO)

Submission to the Rural and Regional Affairs and Transport References Committee Inquiry into the Importance of a Viable, Safe, Sustainable and Efficient Road Transport Industry

1. Scope of this Submission

This submission, which is made on behalf of the Australian Road Transport Industrial Organisation, (ARTIO), its Branches and affiliated counterpart state commercial associations, provides an employer/prime contractor organisation perspective on issues addressed by the Terms of Reference of this Inquiry.

This submission will address the Terms of Reference in a general context rather than making specific points to each of the terms.

2. ARTIO

ARTIO is an Industrial Organisation of Employers registered under the Fair Work (Registered Organisations) Act 2009. It represents employers in the road transport and logistics industry. As at 30 September 2019, it had around 300 members. These include the large multi-national transport companies down to the small family owned businesses that perform a large percentage of Australia's freight task.

ARTIO operates as a federation with Branches in all States, except South Australia and Western Australia. ARTIO and its Branches operate independently and in accordance with a common set of rules applying across the Organisation. Further, each of ARTIO's Branches have a close affiliation

with state counterpart commercial associations that represent the local road transport industry before state and local Governments.

ARTIO Council, which has a representative from each State, meets on a bi-monthly basis to consider and discuss industrial relations (IR) issues impacting on the organisation and its members. Much of its day-to-day activities are carried out by the Branches, especially when dealing with operational IR issues.

3. Employment Characteristics of the Road Freight Industry

Employment in the road transport industry is both physical and labour intensive. It is trite to observe that it is an industry which suffers from higher than average death and injury statistics.

According to the Australian Bureau of Statistics, (ABS), an estimated 625,000 workers are employed in the road transport and logistics sector, which comprises freight and passenger transport in all transport modes as well as postal and courier services, warehousing and related industry functions. This can be broken down as follows:

- a. Road transport - almost 360,000 workers, mainly in road freight;
- b. Rail, sea and air transport combined – approximately 112,500 workers;
- c. Warehousing, support services and other transport and logistics work – approximately 162,500 workers.

The transport and logistics sector can also be broken down by occupation. This shows:

- a. Over 280,000 workers are drivers and operators.
- b. Over 105,000 workers are managers/professionals.
- c. Approximately 175,000 workers are in clerical and sales roles.
- d. Approximately 37,500 workers are manual labourers.
- e. Approximately 25,000 workers are in technical and trades roles.

Employment in road transport, including in the postal and courier industries continues to grow. In recent years, employment has risen in all of the above occupations with the exception of technical and trades roles. Growth has been particularly strong (11-12 per cent in the five years to 2016) in the driver/operator and manager/professional categories compared to 6 per cent across the sector as a whole.

Workers in the transport and logistics sector are, on average, older than all other sectors of the economy with an average age of 45 and an estimated 25 per cent over the age of 55. Approximately 75 per cent of all workers in the sector are male. In the road freight industry, this percentage is thought to be around 85 to 90 percent.

In terms of employment status, the sector can be broken down as follows:

- a. 53 per cent of workers work permanent full time.
- b. 6 per cent work permanent part-time.
- c. 21 per cent work casual.
- d. 5 per cent are in owner/manager roles.
- e. 5 per cent are owner operators.

Part-time workers, including casuals, comprised only about 8 per cent of the sector's work force in the mid-1980's. The proportion of workers defined as underemployed using the ABS definition (someone who wants to work more hours) has increased from about 4.2 per cent in 1991 to about 7.7 per cent in 2016. These sector wide trends in transport and logistics are likely to be repeated in the road freight industry and are likely to reflect both the expectations of employers and, for some employees, a preference for part time work.

4. The Road Transport Industry and the Australian Economy and Society

The road transport industry connects all Australians because it is involved in the transport, storage and distribution of almost all goods purchased, sold, exported and imported. The industry only exists because Australians want

goods moved from one place to another and they rely on road transport operators to undertake that task. For those workers, the cabin of a truck is a workplace.

The industry can be divided into hire and reward operators, or businesses established for the sole purpose of providing transport and related services, and ancillary fleet operators who run a truck fleet which is ancillary to their principal business purpose, usually in the agriculture, construction or manufacturing sectors. There are over 30 sectors, plus many sub-sectors, in the road transport industry. The more obvious ones are:

- a. Livestock
- b. Forestry
- c. Dairy Industry
- d. Grains, Cotton and Sugar Cane
- e. Horticulture and Viticulture
- f. Defence Forces
- g. Taxi Trucks, Couriers and Messengers
- h. Over-dimensional and Heavy Haulage
- i. Container Cartage and Storage
- j. Warehousing (Bond, Free, Contract)
- k. Contract Distribution
- l. Long Distance Road Freight
 - i. Intrastate General
 - ii. Interstate General
 - iii. Express
 - iv. Bulk
- m. Tip Trucks
 - i. Quarried Materials
 - ii. Excavated Materials
 - iii. Coal and Minerals
- n. Freight Forwarding
 - i. Air
 - ii. Sea
 - iii. Rail

- o. Motor Vehicles and Farm Machinery
- p. Manufacturing:
 - i. Aluminium, Steel and Timber Products
- q. Furniture Removals and Storage
- r. Bulk Tankers – Liquid and Dry Goods:
 - i. Local
 - ii. Intrastate
 - iii. Interstate
- s. Concrete Agitating
- t. Refrigeration
 - i. Chilled.
 - ii. Frozen
- u. Food and Beverages
- v. Country Carriers
- w. Dangerous Goods
- x. Armoured Vehicles
- y. Waste Management
- z. Ancillary Transport
 - i. Agriculture.
 - ii. Building and Construction
 - iii. Manufacturing
 - iv. Mining
 - v. Retail and Wholesale

Other characteristics of the industry are:

- a. Seasonal factors – harvests, religious and cultural events.
- b. Cyclical factors – the ups and downs of particular sectors of the economy as well as the economy as a whole.
- c. Regular work, for example picking up milk from farm to deliver to factory and then to retail outlets.
- d. Irregular work, for example the delivery of specialist machinery or equipment to a mine site.
- e. Contract work, for example pick-up and delivery of spoil and fill at a construction site.

- f. Full time, part-time, casual and 'gig' work in relationships either between employers and employees, or between principal contractors and sub-contractors which are driven by the regularity of work and the industry sector, including those described above.

Over the long term, the industry has grown faster than the economy as a whole. This is due to improvements in the standard of living of Australians and their purchasing patterns as well as a shift from other transport modes to road. The industry operates on a 24/7 basis, 365 days a year across urban, regional, rural and remote Australia conducting local, long distance and intermodal transport.

It is clear from the list of sectors herein, that it is essential for Government, at both Federal and State levels, to provide the necessary infrastructure to enable the road transport industry to operate in an efficient and cost-effective manner. The industry has to regularly approach governments, including at the local level as well, to seek continuous improvement around that infrastructure.

This is especially important in the current environment where Governments, especially Federal, NSW and Victoria, are engaged in major infrastructure construction. This work is required but it will impact on the road transport industry and add additional costs to the transport supply chain as trucks are held up over the next five to ten years due to this plethora of construction work in Australia's two largest cities.

With respect to infrastructure projects, there is often a tension between, on the one hand Government as the infrastructure provider and, on the other hand as the payer to those contracted to provide that infrastructure at the cheapest price available. Unfortunately, the road transport company is at the bottom of the contractual chain and will often be squeezed to provide services at the 'cheapest' rate. This impacts on its ability to pay its employees fairly or re-invest in necessary plant and equipment.

Additionally, those trucks required to move the millions of tonnes of spoil surrounding these projects will require careful management to protect those working in those sectors of the industry as well as the general public.

With the emergence of the 'gig' economy, there is the potential for the abuse of contractors supplying transport services in many of the sectors listed above. There are at best, inadequate structures currently available to protect those workers engaged on a 'gig basis' as the law does not regard them as employees, so there are no industrial instruments available to provide basic protections for them. Nor, does it appear that they get any protection under the principle of 'common law contract'.

It is ARTIO's firm view that the road transport industry requires a set of 'minimum suite of standards' around wages, conditions, entitlements of those employees and contractors who perform the road freight and logistics task on behalf of the Australian economy and its people. This means that all workers, whether employee or contractors, should be remunerated for all work performed. This can become a critical issue when workers are engaged on a piece rate system – whether it be tonne carried, boxes moved etc – against payment on an hourly or time-based system.

5. Road Related Accidents and Trauma

Addressing the issue of heavy vehicle road related accidents and trauma including road deaths is not an issue that can be addressed in isolation. There are many factors that need to be harmonised to genuinely address the horrible statistics that confront the heavy vehicle industry today.

Training education, and driver competency is addressed in further sectors of this submission but it is not the only factor that needs to be included in the Inquiry. Road infrastructure, route planning, along with technology and communication are just a few of the other factors that need to be included.

The building of major highways in Australia continues to drag along at a very slow pace. The national transport strategy does not have acceptance and funding and there can be no clear direction without commitment to a plan. The heavy vehicle industry believes that the inability to understand the needs of individual sector requirements relates to projects that do not meet the industry's expectations. While being users of the roads and highways, adapting to Tolling and facing the unproductive nature of ever increasing congestion, the road transport industry continues to provide its fair share of funding.

Individual state governments do not understand the perspectives of the road users that are required to use the roads in Australia to make a living. There needs to be a united perspective on road and route planning that better manages HV's on our roads.

Another reflection on the degree of misunderstanding can be found in the implementation of curfews which are short term, narrow-visioned solutions to a bigger problem. A basic principle of Supply Chain is about 'Flow'. If there is no flow of the various modes, bottlenecks occur which in turn creates inefficiency, poor decision making which in turn leads to increased pressure, accidents and road trauma.

Heavy vehicle cabins are workplaces which operate on Australian roads. The community has an expectation that the heavy vehicle driver has the same amount of risk as other workers. This can only be achieved by identifying the specific issues, their related solutions and how we can adopt these solutions.

Other examples that need to be addressed in the review include prescribed freight networks, signage and messaging, rest stops and turnouts, construction standards and an increase in blackspot funding.

6. Technological Change

Recognised benefits of technological change in a workplace context in the road transport industry include:

- a. Improved safety, wherever human shortcomings can be addressed through automation, improved design and engineering and other technological advances.
- b. Savings due to larger production runs, improved productivity in vehicles and other equipment, lower fuel costs and higher labour productivity.
- c. Lower fuel consumption.
- d. Greater visibility and accountability.
- e. Lower greenhouse gas emissions.
- f. New areas of employment directly related to a new technology, including new products and services, new occupations, greater specialisation and new work methods.

7. Road Transport and Technological Change - What History Tells Us

The road transport industry is characterised by ongoing, incremental technological change however, such change can also be significant and disruptive. Incremental technological change is apparent in improved design and engineering as well as the increased specialisation of rigid trucks, prime movers, trailers and the components thereof. These innovations aim to improve the safety of all road users or reduce damage to loads. There are many others which, together, have made the industry safer, more productive and in an operational sense more flexible. This has led to a more flexible regulatory regime, for example incremental increases in vehicle dimensions and mass limits. Together, these have contributed to the long-term relative improvement in competitiveness against other transport modes.

Examples of industry or sector-wide technological change include the introduction of motor vehicles, the container and the pallet. Other examples relate to the use of satellite tracking technology to do such things as monitor vehicle location, speed and operating time as well as improve the allocation of transport tasks.

Occasionally, the adoption of new technology can take a long time. It took over two decades from the invention of the internal combustion engine before mass production led to a significant reduction in manufacturing costs and an uptake in the rate of adoption of passenger transport and freight tasks by motor vehicle. Horse transport in Australia persisted in well established, successful businesses until after the end of World War II. A whole new body of what is very complex road law was developed to ensure motor vehicles were regulated having regard to issues such as safety and access. The sharp increase in car ownership after World War II saw governments redirect transport network funding from rail and tram to road, especially in urban areas and on intercity routes to facilitate more widespread adoption of what was at the time a 60-year old invention.

Pallets and containers were adopted on a large scale much more quickly because the commercial, legal and other constraints which slowed down the adoption of motor vehicles were not present. Their modular characteristics, low production costs per unit and easy application across freight modes substantially reduced loading, unloading and spoilage costs and improved workplace safety. These innovations were applied to many different types of transport task. Satellite tracking technology is also widely used and was quickly adopted due to low costs and a wide range of operational applications.

The significant improvements in productivity, efficiency, safety and reliability arising from these innovations substantially reduced transport costs and led to strong growth in employment, especially in the road freight industry.

8. The Impact of the Gig Economy in Road Transport

Innovation based on new technologies is leading to a fundamental reorganisation of work and relationships between those who provide that opportunity and those who undertake the work, particularly where the costs of adoption are minimal and economies of scale can be easily realised.

Businesses which have established digital on-line platforms such as Uber are driving the rapid development of the gig economy, or an economic environment where work comprises a series of one-off transactions which have been common in the taxi or entertainment industries. 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 contractor/sub-contractor relationships, vehicles and bicycles painted in the principal contractor's colours and more structured and secure work.

Platform owners provide the infrastructure whereby a consumer, (passenger, consignor or consignee), can request provision of a service by a transport operator through its commercial relationship with the platform owner. As is the case with the courier business, economies of scale can generate low overheads while setting rates for customers, remuneration and minimum operating standards for contractors, and 'clipping the ticket' on each job or gig. The contractor provides the equipment (car or bicycle and communications infrastructure), meets operating costs to generate work and are allocated one-off gigs.

These commercial relationships sit outside traditional employer/employee and principal contractor/sub-contractor relationships in the industry and, arguably, threaten standards of remuneration and working conditions even though the ad hoc nature of the work involved may of itself be attractive to contractors engaged through platform owners. Whether this type of work remains attractive to a section of the labour market may depend on market characteristics such as the level of underemployment. Irrespective, the scope and extent of regulatory obligations imposed on platform owners, including those in workplace law, is substantially less than that of transport operators. Platform owners rely on the definition of their business as being outside both the road transport industry and the employer/employee relationship.

Platform owners are less likely to enter industry sectors where there are relatively few transactions, where there is more of an emphasis on the quality of the work performed, the skill level required, or where a greater level of judgement is required in executing the transport task which will limit their expansion in the industry. However, expansion is conceivable wherever they have the capacity to provide a more efficient platform for connecting consignors and consignees with transport operators.

Legislation has not kept pace with changes in work arrangements in the gig economy which means a detailed review of current employment legislation, with a particular focus on its adequacy and efficacy is justified, especially around the nature of the 'employment relationship' or engagement. It is noted that some UK Tribunal decisions, involving Uber, are having an impact on the law surrounding this area. It is readily acknowledged that the Senate has already enquired into the 'gig economy' and there is currently a Victorian Government Inquiry into this topic, with an obvious focus on Victoria.

Currently, the law recognises employees or independent contractors and perhaps it is time that Government considers the need to protect workers by introducing a further legal concept of 'dependent contractor' to provide protections to those workers who are not employees nor independent contractors, but rather, earn their living by providing regular services through a technological platform on a regular basis – examples include Air-tasker, Uber, Deliveroo and related operations.

ARTIO believes that there needs to more clarity around the legal definitional issues that have developed in the employment law area – this impacts wages and conditions, job security, superannuation, workers compensation and applicable minimum employment standards around leave, working hours etc which currently exist in the National Employment Standards (NES).

There is also a very important issue around workplace health and safety – 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. Related to this issue would be the need to determine how those 'gig workers' would be protected from injury 'arising out of or in the course of employment' under general workers' compensation insurance. Is it time to re-consider the development of a national workers compensation scheme?

9. Adapting to Change

While the adoption of new technologies and ideas generates many more benefits than costs, it is important that the benefits are spread widely and are not confined to the innovator such as the platform developer. They should be rewarded for their risk and enterprise but not necessarily at the expense of workers who gain work through such businesses. Legislative and institutional change usually occurs after the event. The starting point, as stated earlier is to review its adequacy and efficacy.

One of the most significant costs is loss of employment, especially in occupations that become obsolete. However, new occupations also emerge which often urgently require skilled workers. Chronic shortages can exist in other occupations such as truck driving.

It is important that training and other support be provided to workers under threat of redundancy either to provide a dignified retirement or the opportunity for a sustainable future as a worker. Unlike most industries and professions, the road transport industry lacks a robust institutional framework to assist employees in occupations related to driving and warehousing. There is heavy reliance on the graduated licencing system managed by road agencies but little else.

History suggests the road freight industry will continue to need drivers, especially for the foreseeable future. Improvements in the institutional

framework, including apprenticeships for transport workers, which extend beyond the graduated licencing system to better provide work opportunities for drivers can assist workers elsewhere in the economy who face an uncertain future due to technological change.

10. *Training and Education*

For many decades now the road transport industry has been looked upon as job with a low level of skill. Those that have worked in the industry for many years, know that this is not the case. While the barriers to entry are so low and the inability to engage with young people persists the industry has had to suffer with the low levels of training and education.

This does not need to be the case and the reforms that are necessary will take in the co-operation of a number of government departments to enable the level of response that the industry is calling for.

A change to the licencing system, a change to the qualification of individuals at different levels and job functions and a change to the response by government in ensuring that the true skills that drive the individuals in our industry are taught at the beginning of their careers and not a decade or so later is long overdue.

For many decades, the road transport industry has suffered with a shortage of skilled and professional drivers. Often chastised within the media due to issues associated with vehicle accidents, together with the inherent fear from other road users driving around heavy vehicles, the road transport industry has not been seen as an industry of choice or as one that an individual can develop as a career.

This issue has meant that the road transport industry has not been accepted within stakeholder environments as an industry that can lead and determine its own development or direction. While many great businesses have sprung from the hard work of those in the industry many businesses have failed as the

pressures of growing companies regularly not take in the basic business skills and levels of responsibility that are necessary to maintain a sustainable and successful business.

There is no doubt that one of the reasons that the industry fails to attract and retain professional people is due to the levels of qualification and experience needed to start within the industry. At present, these levels are very low and there is little recognition of experience, knowledge and responsibility within a road transport company. 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.

Structured learning pathways that include the review of the heavy vehicle licencing system, the review of the vocational training modules and the introduction of an industry apprenticeship scheme that leads onto formal recognition of acquired skills needs to be investigated and actioned. The benefits of this for all transport workers, irrespective of their roles and responsibilities, include:

- the development of formalised career paths,
- wider recognition of and acceptance of qualifications,
- greater opportunity for advancement based on skills and attitude,
- greater levels of self-esteem and self-respect amongst transport workers,

11. Conclusion

It is well accepted that road transport is a national industry and should be treated as such. Australia was formed and its Constitution enacted when there were very few motorised vehicles operating. Road freight was still carried by horse and cart, yet as a nation we rely on State legislation to govern this very important asset of the Australian economy. In fact, it is easier to drive a truck across Europe than Australia (subject to what may happen with Brexit).

ARTIO strongly supports the establishment of a formal consultative arrangement between the Federal Government and the industry to ensure that road transport has the necessary infrastructure and legal support to continue to drive the Australian economy forward and thereby benefitting all Australians.

In conclusion, ARTIO makes the following observations:

- a. History continues to demonstrate that the adoption of new technologies and ideas delivers benefits to the broader community, including in relation to work opportunities and increased employment. This is evident in the road freight industry which has experienced sustained employment growth over many years.
- b. Technological change is adopted more rapidly when there are no or negligible barriers due to legislation, infrastructure, social acceptance, cost, asset value, investment or capability of employers, management and other workers. This is evident in improvements in the quality and safety of motor vehicles and the adoption of innovations as diverse as the container, the pallet, satellite tracking and the use of digital communication platforms,
 - Unfortunately, the Heavy Vehicle National Law is an impediment to the industry and the current review must ensure both a much simpler and totally harmonised national system.
 - It should also hold to account those companies at the top of the supply chain who control pricing to those transport companies who provide transport and logistics services.
- c. The establishment of a Transport Standards Inspectorate to provide appropriate and necessary enforcement mechanisms around the employment/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.

- d. Where adoption of new technology and ideas is rapid and disruptive, and clearly not in the best interests of well-run and legitimate transport businesses, ARTIO supports:
 - i. A review of the adequacy and efficacy of the legislative and institutional framework, especially around employment law, including workers' compensation schemes, particularly as it relates to the gig economy;
 - ii. Improvements to the institutional framework to facilitate entry via an apprenticeship and where appropriate, retraining into the road freight industry.

- e. The establishment of a formal consultative mechanism between the road transport industry and all levels of government to ensure that required infrastructure is identified, planned and built to benefit the Australian economy – ARTIO suggests the establishment of a National Road Transport Consultative Council comprised of Government at all levels and Registered Organisations which represent the industrial interest of prime contractors, employers and workers in the industry.

ARTIO

November 2019

