

Chapter 4

Australia's heavy vehicle industry

4.1 The issues faced by the heavy vehicle industry have proved critical to the committee's inquiry. Contributors to the inquiry so far have included transport industry representative bodies at state and federal levels, freight companies, individual truck drivers and heavy vehicle safety specialists. The committee has particularly appreciated generous contributions by representatives of an industry that experiences acute time pressures.

4.2 Sadly, the committee was not surprised to hear that heavy vehicles are 'over-represented in road crash fatalities and injuries' and that 'hospital admissions and injuries are trending upwards'.¹ Toll Group told the committee that '[a]pproximately 350 truck rollovers are reported each year in Australia'.² As the Transport Workers Union of Australia (TWU) remarked, 'no other industry injures 5 350 people per year at the rate of 31 per day'.³

4.3 The sheer volume of adverse statistics in part reflects the enormity of the Australian freight task. In 2013, transport and logistics accounted for 8.6 per cent of the Australian GDP and employed 1.2 million people.⁴ Australia's geography and level of demand for goods and services drives these statistics, as the committee heard:

Australia's vast distances and widely dispersed centres make it peculiarly reliant on road freight... Around 26,000 tonne kilometres of freight is moved annually for every person in Australia.⁵

4.4 The social benefits of the heavy vehicle industry were raised by numerous witnesses and submitters.⁶ In particular, the importance of road transport to Australia's food security, health and wellbeing was illustrated by the Rural Health Alliance who submitted:

Remote communities are at heightened risk of food insecurity. Better transport links present opportunities to improve remote people's access to fresh, affordable and nutritious food which will in turn enable them to improve their health and wellbeing.⁷

1 Toll Group, *Submission 33*, p. 2.

2 Enginistics, *Submission 21*, p.1.

3 Transport Workers' Union of Australia, *Submission 64*, p. 4.

4 Toll Group, *Submission 33*, p. 4.

5 Toll Group, *Submission 33*, p. 3.

6 See for example Transport Workers' Union, *Submission 64*, p.1; National Independent Trucking Association Inc., *Submission 9*, p. 2.

7 National Rural Health Alliance, *Submission 39*, p. 9.

4.5 The importance of improving conditions for heavy vehicle drivers was highlighted by Mr Ian King, President of the Western Australian Road Transport Association, who told the committee that '[w]ithout a driver, we do not have anything ... we do not have food in our country towns'.⁸

Safe payment systems

4.6 The true challenge for transport companies is the 'low margin, high risk' nature of their work. The committee heard that the average margin is 'about 2.38 per cent on average across the country'.⁹ The TWU submitted that the economic pressure is caused by the power imbalance between clients and operators in transport industry:

The high level of control exercised by clients over price, timing, destination and route causes operators to bear the costs that, ordinarily, are borne by customers. Denied a proper return, let alone a margin that exceeds the cost of capital, operators undercut each other, bid the price of transport down, and attempt to recoup the losses caused by clients from drivers by not paying them for all work performed; and by paying them through incentive rates.¹⁰

4.7 Mr Peter Anderson, Chief Executive Officer of the Victorian Transport Association explained the connection between low margins and poor safety practices in the industry, such as unqualified drivers and older equipment:

...it is rare for a company to make, what I would call, acceptable margins on a long-term scale... The company then has to make a decision around whether it chases the cash flow and presents something that is not truly representative of what they are [so that] the customer will then take up a much lower value bid. That decision can lead to drivers being employed without full training, without processes not being audited correctly, with equipment not being updated as it should.¹¹

4.8 The National Transport Commission reported in 2008 in *Safe Payments: Addressing the underlying causes of unsafe practices in the road transport industry* that a safe payment system would 'allow for drivers to be remunerated at rates which

8 Mr Ian King, President, Western Australian Road Transport Association, *Committee Hansard*, 18 February 2016, p. 21.

9 Mr Tony Sheldon, National Secretary, Transport Workers Union of Australia, *Committee Hansard*, 2 July 2015, p. 40.

10 Transport Workers' Union, *Submission 64*, p. 3.

11 Mr Peter Anderson, Chief Executive Officer, Victorian Transport Association, *Committee Hansard*, 3 July 2015, p. 29.

will allow them sufficient cost recovery without having to cut corners'.¹² The commission concluded that a safe payments system would not have an adverse effect on productivity or competition:

A safe payments system will not discourage transport operators from making productivity and efficiency gains in their businesses and will not prevent them competing on price, it will just set in place a system which will allow the drivers to perform their work legally and safely.¹³

Road Safety Remuneration Tribunal

4.9 The committee is deeply disturbed by the government's abolition of the Road Safety Remuneration Tribunal (the tribunal) by legislation on 19 April 2016. The committee heard strong support during this inquiry for the tribunal's continued operation, including that it 'has the support of drivers, their families and road transport companies'.¹⁴ The National Independent Trucking Association submitted that:

We are seeking the support of the senate not to repeal the Road Safety Remuneration Act 2012 and the [dismantling] of the tribunal (RSRT), and the withdrawal of any orders made by the tribunal, when requested to do so by the government.¹⁵

4.10 Against the weight of evidence in support of the tribunal's continued operation, only one submitter supported its abolition.¹⁶

4.11 The tribunal's establishment in 2012 was informed by the findings of the Road Transport Commission as well as the House of Representatives committee report *Beyond the Midnight Oil: Managing Fatigue in Transport*, and the Safe Rates Advisory Group's directions paper *Safe Rates Safe Roads*. The tribunal's functions were defined in legislation as including:

12 National Transport Commission (with the Hon Lance Wright QC and Professor Michael Quinlan), *Safe payments: addressing the underlying causes of unsafe practices in the road transport industry*, October 2008, p. 47, http://www.rsrt.gov.au/default/assets/File/Subs_on_draft_RSRO_TWU/exhibits/MQ%205.2008.Quinlan%20et%20al.pdf (accessed 18 April 2016).

13 National Transport Commission (with the Hon Lance Wright QC and Professor Michael Quinlan), *Safe payments: addressing the underlying causes of unsafe practices in the road transport industry*, October 2008, p. 47.

14 Transport Workers' Union of Australia, *Submission 64*, p. 4. See also Victorian Transport Association, *Submission 65*, p. 2; National Independent Trucking Association, *Submission 9*, p. 2; Mr Steven Corcoran, *Submission 25*; Mr Cameron Dunn, Managing Director, FBT Transwest, *Committee Hansard*, 2 July 2015, p. 38; Mr Salvatore Patrocitto, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 26 October 2015, p. 36; Mr Ian King, Western Australian Road Transport Association, *Committee Hansard*, 18 February 2016, p. 27.

15 National Independent Trucking Association, *Submission 9*, p. 2.

16 National Road Transport Association, *Submission 73*.

- making road safety remuneration orders;
- approving road transport collective agreements;
- dealing with certain disputes relating to road transport drivers, their employers or hirers, and participants in the supply chain; and
- research into remuneration-related matters that may affect safety in the road transport industry.¹⁷

4.12 The tribunal made two enforceable orders that applied to road transport drivers in supermarket distribution or long distance operations. The first, in operation since 1 May 2014, imposed obligations including safe driving plans and contracts and policies on drug and alcohol use and work, health and safety.¹⁸ The second was intended to commence on 4 April 2016 to provide minimum pay rates and unpaid leave for contractor drivers. The second order was subject to court orders to delay its implementation shortly before the government abolished the tribunal.

4.13 The TWU described the creation of the tribunal as a 'critical step in addressing heavy vehicle safety in Australia'. It was their submission that, separate from the role of Fair Work Australia and the NHVR, the tribunal was:

... the only body with the power to set rates of pay for contract in the road transport industry and hence the only body with the necessary power to tackle the underlying economic pressure placed on Australian Heavy vehicle drivers in the retail supply chain.¹⁹

4.14 Based on the evidence before it, the committee is persuaded that the repeal of the tribunal was a retrograde step for road safety in Australia. The committee will examine the reverberations of the government's decision throughout the heavy vehicle industry should this inquiry continue.

Heavy vehicle driver licensing

4.15 The committee has been alarmed by recent events and evidence before it about heavy vehicle drivers who are given licenses and employment without the basic skills necessary to perform the task, which poses considerable danger to other road users. Worryingly, it appears to the committee that a number of underqualified drivers are overseas-born and may be in Australia on temporary visas, despite the fact that truck driving is not a permissible occupation on the consolidated sponsored occupations list for the temporary work (skilled) visa (subclass 457) program.²⁰

17 *Road Safety Remuneration Tribunal Act 2012*, s 80, paras (a)–(d).

18 Department of Employment, *Discussion Paper: The Road Safety Remuneration System*, March 2016, p. 2.

19 Transport Workers' Union of Australia, *Submission 64*, p. 4.

20 Mr Jim Williams, First Assistant Secretary, Department of Immigration and Border Protection, *Committee Hansard*, 22 March 2016, p. 16.

4.16 The committee has identified a number of issues arising from a major traffic incident on the M5 freeway in Sydney where a driver was unable to reverse or decouple a B-double heavy vehicle. Given that the driver of the vehicle was a foreign national and in Australia on a student visa, the committee urged the Department of Immigration and Border Protection to launch an urgent investigation into the misuse of student visas to employ people in the transport industry.²¹ The committee was notified on 14 April 2016 that:

The Department is currently undertaking investigative activity in regards to misuse of the student visa program targeting employers, education providers and other facilitators of breaches under the *Migration Act (1958)* and associated regulations.²²

4.17 The second issue of concern from the incident on the M5 freeway was allegations that a registered training organisation called 'ACT' in Tweed Heads, New South Wales had certified at least 111 drivers as competent to drive heavy vehicles without testing them for the necessary skills.²³ This included the driver of the vehicle on the M5 freeway who had his Queensland drivers licence upgraded to a heavy rigid drivers licence on the basis of his certificate of competency from ACT.

4.18 The committee heard from the Queensland Department of Main Roads and Transport that based on their own investigations, ACT 'had not followed the appropriate process and was providing competency certificates to participants without evidence that they had been appropriately trained'.²⁴ The Queensland Government issued show cause notices to the 111 drivers that had received licence upgrades on the basis of their competency certificates from ACT.²⁵ Mr Mike Stapleton, Deputy-Director-General of Customer Services, Safety and Regulation told the committee that 'it appears to us that there would be a nationality linkage' between the assessor and drivers.²⁶

21 Mr Jim Williams, First Assistant Secretary, Department of Immigration and Border Protection, *Committee Hansard*, 22 March 2016, p. 21.

22 Ms Christine Dacey, Acting First Assistant Secretary, Visa and Citizenship Management Division, Department of Immigration and Border Protection, correspondence received 14 April 2016.

23 Mr Mike Stapleton, Deputy Director-General, Customer Services, Safety and Regulation, Department of Main Roads and Transport, *Committee Hansard*, 22 March 2016, p. 64.

24 Mr Mike Stapleton, Deputy Director-General, Customer Services, Safety and Regulation, Department of Main Roads and Transport, *Committee Hansard*, 22 March 2016, p. 60.

25 Under section 125 of the *Transport Operations (Road Use Management–Driver Licensing) Regulation* (Queensland), if the chief executive considers a ground exists to amend, suspend or cancel a person's Queensland driver licence, they may give written notice inviting the person to show cause of why the proposed action should not take place.

26 Mr Mike Stapleton, Deputy Director-General, Customer Services, Safety and Regulation, Department of Main Roads and Transport, *Committee Hansard*, 22 March 2016, p. 65.

4.19 Following the Queensland discovery, the committee heard that the Australian Skills Quality Authority has 'commenced audit proceedings' in relation to the operations of the 'ACT' training organisation.²⁷ As this inquiry continues, the committee calls on the Australian Skills Quality Authority to assist further by examining the probity of heavy vehicle registered training organisations throughout Australia.

Recommendation 15

4.20 The committee recommends that Australian Skills Quality Authority conduct an audit of all heavy vehicle driver training facilities (registered training organisations) in Australia.

Overseas drivers

4.21 The committee is concerned at the ease by which overseas drivers can get behind the wheel of the largest and most dangerous vehicles in Australia.

4.22 The committee heard that driver licensing functions, including for heavy vehicles, are performed by Australian state and territory governments, with national oversight by AustRoads. Austroads administers the National Driver Licensing Scheme which ensures uniform classifications, eligibility and requirements including the issue, suspension and cancellation of licences.²⁸ State-based variations do exist, including on the treatment of overseas drivers, which the committee has heard has particular implications for the heavy vehicle industry.

4.23 Overseas drivers who do not hold a permanent visa can use their valid overseas licence to drive in Australia. Jurisdictions recognise all classes of licence a visitor had in their home country, including classes of heavy vehicle licence. In the Northern Territory overseas and interstate licences can only be driven on for three months, but there are no time restrictions elsewhere on driving as a visitor.

4.24 The committee understands that if an overseas driver is granted a permanent visa, they would need to apply for a permanent licence from an Australian jurisdiction within three months (or six months in Victoria). Unless their country was one of those recognised by Austroads, they would need to pass knowledge and driving tests for each class of licences sought.²⁹

4.25 On the other hand, if an overseas driver fails a driving test in Queensland, New South Wales, the Australian Capital Territory, Victoria or Tasmania, they are no longer allowed to drive on their overseas licences. However, 'there are no provisions

27 Mr Mike Stapleton, Deputy Director-General, Customer Services, Safety and Regulation, Department of Main Roads and Transport, *Committee Hansard*, 22 March 2016, p. 64.

28 Austroads, *Australian driver licensing*, www.austroads.com.au/drivers-vehicles/registration-licensing-program/australian-driver-licensing (accessed 15 April 2016).

29 Australian Trucking Association, *Submission 38*, p. 1.

to this effect in South Australia, Western Australia or the Northern Territory', meaning that overseas drivers who fail the driving test can continue driving on their existing licence before and up to three months after they are granted a permanent visa.³⁰

4.26 Licences from approximately 27 countries have been recognised in Australia, primarily European countries as well as the United States of America, Japan and Singapore. This means that on application, those drivers do not need to pass knowledge or driving tests for each class of licence sought, as their overseas driving experience is recognised. Drivers from a further 16 countries can have their driver experience recognised but would still be required to sit a test, including Hong Kong, Taiwan and South Africa.³¹

4.27 Mr Mike Stapleton, Deputy Director-General of Customer Services, Safety and Regulation at the Queensland Department of Transport and Main Roads, explained that because India is not on the list of countries approved by Austroads, the following process would apply to obtain a heavy vehicle licence:

An Indian licence holder wanting to transfer, for example, an Indian licence that corresponds to a Queensland heavy-rigid HR licence would need to pass both a written road rules test and a Queensland practical driving test in a class HR vehicle. However, we would also recognise a class HR training course delivered by a recognised registered training organisation in a jurisdiction that has adopted the National Heavy Vehicle Driver Competency Framework, which is the national framework, in lieu of a Queensland practical driving test. Both New South Wales and Victoria have adopted these schemes in recent years.³²

4.28 The committee has heard already evidence that driving heavy vehicles in Australia requires knowledge of a unique set of conditions.³³ The committee will give further consideration to the issue of overseas drivers, even from recognised countries, being automatically granted the equivalent classes of heavy vehicle licence on application in Australia.

Recommendation 16

4.29 The committee recommends that all visa holders undergo driver skill tests before their heavy vehicle driving licences are recognised in Australia.

30 Australian Trucking Association, *Submission 38*, p. 1.

31 Austroads, *Applying for a Licence*, www.austroads.com.au/drivers-vehicles/overseas-driver-licences/applying-for-a-licence (accessed 18 April 2016).

32 Mr Mike Stapleton, Deputy Director-General, Customer Services, Safety and Regulation, Department of Main Roads and Transport, *Committee Hansard*, 22 March 2016, p. 59.

33 Mr Bill McKinley, National Manager, Government Relations and Policy, Australian Trucking Association, *Committee Hansard*, 22 March 2016, p. 37; Toll Group, *Submission 33*, p 7.

Heavy Vehicle National Law

4.30 In 2014, most Australian jurisdictions adopted a uniform model for aspects of heavy vehicle regulation. State and territory authorities are still responsible for registration, inspections, driver licensing and dangerous goods, but fatigue management and certain vehicle standards now benefit from a national approach.

4.31 The Heavy Vehicle National Law (HVNL) and regulations took effect in February 2014 as a 'national rulebook in all Australian jurisdictions except the Northern Territory and Western Australia'.³⁴ HVNL authorises the National Heavy Vehicle Regulator (NHVR) to enforce heavy vehicle offences under the HVNL.³⁵

4.32 The committee heard that work is ongoing to allow the HVNL to be adopted in Western Australia and Northern Territory, without compromising unique requirements in those jurisdictions. The NHVR told the committee that it:

...is in ongoing discussions with governments and industry in Western Australia and the Northern Territory with a view to those jurisdictions ultimately adopting the national law to create a truly national regulatory framework for heavy vehicles in Australia.³⁶

4.33 The committee heard that the Northern Territory and Western Australia have been 'vocal' in the development of national measures to combat driver fatigue. Chair of the NHVR Mr Salvatore Petroccitto recognised the 'uniqueness' of the Western Australian driver experience, telling the committee that the NHVR had 'adopted a lot of' measures from that jurisdiction.³⁷

4.34 The National Transport Commission conducted its first review of the HVNL in 2015, which led to amendments to the HVNL that took effect on 6 February 2016. The revised NHVL includes:

- new offences of using a restricted access vehicle on public roads without authority and tampering with labels affixed by NHVL examiners;
- revised penalties to ensure consistency across the NHVL;
- aligned standards for new and in-service vehicles; and

34 Mr Salvatore Petroccitto, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 26 October 2015, p. 30.

35 National Heavy Vehicle Regulator, *Heavy Vehicle National Law and Regulations*, www.nhvr.gov.au/law-policies/heavy-vehicle-national-law-and-regulations (accessed 15 April 2016).

36 Mr Salvatore Petroccitto, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 26 October 2015, p. 30.

37 Mr Salvatore Petroccitto, Chief Executive Officer, National Heavy Vehicle Regulator, *Committee Hansard*, 26 October 2015, pp 32, 35.

- formal recognition of electronic work diaries, to be rolled out in 2017.³⁸

4.35 The committee is pleased to note that the NHVR is 'working to progress arrangements' to implement Electronic Work Diaries to reduce the compliance burden on fatigue-regulated drivers.³⁹ The committee has heard support for this initiative as a method of reducing fatigue among heavy vehicle drivers. While electronic work diaries will be introduced as a 'voluntary alternative to written work diaries,' the committee encourages their widespread use throughout the industry.⁴⁰

Recommendation 17

4.36 The committee recommends that the Western Australian and Northern Territory governments continue to work with the National Heavy Vehicle Regulator towards their adoption of the National Heavy Vehicle Law.

Heavy vehicle driver training

4.37 The committee has heard calls for careful consideration be given to the training requirements of heavy vehicle drivers. Mr Brendan Tenison-Woods, Director of the Driver Education Centre of Australia (DECA), observed that:

Whilst there was a wealth of research into car-driver training I did not believe there had been any training-needs analysis conducted into the skills set or training requirements of truck drivers.⁴¹

4.38 The committee heard that one of the primary concerns for DECA is the 'minimalist time frame' within which the bulk of heavy vehicle driver training is being conducted.⁴²

4.39 The difficulty of coordinating policy on heavy vehicle driver training and licensing was highlighted by Mr Bill McKinley, National Manager of the Australian Trucking Association, who identified that:

...one of the issues involved in driver training is that it is simultaneously a licensing issue which is the responsibility of the states and a vocational

38 National Heavy Vehicle Regulator, *Heavy Vehicle National Law Amendment Package 4 - Summary Table*, www.nhvr.gov.au/files/201602-0293-hvnl-ap4-changes-summary-table.pdf (accessed 15 April 2016).

39 Department of Infrastructure and Regional Development, *Submission 51*, p. 24.

40 National Heavy Vehicle Regulator, *Electronic Work Diaries (EWDs)*, www.nhvr.gov.au/safety-accreditation-compliance/fatigue-management/electronic-work-diaries-ewds (accessed 15 April 2016).

41 Mr Brendan Tenison-Woods, Director, Driver Education Centre of Australia, *Committee Hansard*, 22 March 2016, p. 48.

42 Mr Brendan Tenison-Woods, Director, Driver Education Centre of Australia, *Committee Hansard*, 22 March 2016, p. 48.

education issue which is the responsibility of various Commonwealth agencies.⁴³

4.40 Based on this difficulty, the TWU and the Australian Trucking Association called for heavy vehicle licensing to be administered nationally by the NHVR.⁴⁴

Conclusion

4.41 The committee looks forward to the opportunity to continue its inquiry into road safety. Australia cannot afford the widespread social and economic costs of road death and ongoing policy uncertainty about serious injury. More work must be done to redress the balance between the interests of drivers and vulnerable road users. It is not enough for policymakers to join with other submitters to this inquiry in condemning the lack of data available on serious injury or cycling fatalities. It is the privilege and responsibility of government to be able to allocate resources to this vital task.

4.42 In the post-manufacturing environment, Australia should only import vehicles with the highest standard of safety features. The committee expects that the Australian Design Rules will retain their central place in ensuring that our vehicles have world-class features, and expects that regulatory lag times will reduce going forward. The committee would like to see autonomous emergency braking mandated as a matter of priority. Supporting the Australian Design Rules, ANCAP ratings should become more prominent so that a focus on safety is forefront in the minds of consumers.

4.43 The challenges of regional and remote areas demand greater investment by governments, particularly to introduce a level of parity in road quality. In regional and remote areas, more effort needs to be made to reduce road deaths. Smart infrastructure investment, whether through the Black Spot Programme or other mechanisms, must play a significant role, as will education awareness of the particular risks and challenges of driving on regional and remote roads.

4.44 Issues relating to the heavy vehicle industry are at the centre of the committee's decision to continue its inquiry. As hearings have progressed, new and worrying evidence has emerged about dangerous behaviours by individual drivers, together with systemic failures in administration and public policy. To make these matters worse, the abolition of the Road Safety Remuneration Tribunal will remove a much-needed layer of protection for the industry. These and other matters must have further scrutiny, which the committee is hopeful of undertaking in the new Parliament.

43 Mr Bill McKinley, National Manager, Government Relations and Policy, Australian Trucking Association, *Committee Hansard*, 22 March 2016, p. 35.

44 Mr Tony Sheldon, National Secretary, Transport Workers' Union of Australia, *Committee Hansard*, 22 March 2016, p. 2; Mr Bill McKinley, National Manager, Government Relations and Policy, Australian Trucking Association, *Committee Hansard*, 22 March 2016, p. 39.