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Official Committee Hansard

**HOUSE OF  
REPRESENTATIVES**

STANDING COMMITTEE ON COMMUNICATIONS,  
TRANSPORT AND THE ARTS

**Reference: Managing fatigue in transport**

FRIDAY, 8 OCTOBER 1999

MELBOURNE

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**HOUSE OF REPRESENTATIVES  
STANDING COMMITTEE ON COMMUNICATIONS, TRANSPORT AND THE  
ARTS**

**Friday, 8 October 1999**

**Members:** Mr Neville (*Chair*), Mr Gibbons, Mr Hardgrave, Mr Hollis, Mr Jull, Mr Lindsay, Mr McArthur, Mr Mossfield, Mr Murphy and Mr St Clair

**Members in attendance:** Mr Gibbons, Mr Lindsay, Mr McArthur and Mr Neville

**Terms of reference for the inquiry:**

- . Causes of, and contributing factors to, fatigue.
- . Consequences of fatigue in air, sea, road and rail transport.
- . Initiatives in transport addressing the causes and effects of fatigue.
- . Ways to achieving greater responsibility by individuals, companies, and governments to reduce the problems related to fatigue in transport.

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**Committee met at 8.46 a.m.**

**CHAIR**—I declare open this public hearing of the House of Representatives Standing Committee on Communications, Transport and the Arts in its inquiry into managing fatigue in transport. I welcome everyone here today to this hearing in Melbourne, the seventh in this inquiry's program of public hearings. In opening the proceedings I emphasise that, in addressing the terms of reference, the committee has not prejudged the issue, nor is there any element of witch-hunt. Members want to hear a full range of views and to consider initiatives which are being or could be developed to better manage fatigue in transport. Managing fatigue is a very important issue in the workplace and has ramifications for all of us.

Under the terms of reference, the committee is asked to inquire into and report to parliament on managing fatigue in transport by focusing on four areas: the causes of and contributing factors to fatigue; the consequences of fatigue in air, sea, road and rail transport; initiatives in transport addressing the causes and effects; and ways of achieving greater responsibility by individuals, companies and governments to reduce the problems related to fatigue in transport.

Victoria is playing a key role in developing and adopting important initiatives to address the management of fatigue, particularly in road transport. The witnesses in today's program include government, industry and union representatives from air and road transport sectors, including Ansett, the National Road Transport Commission and the Transport Workers Union. In addition, we have a witness working to assist the community to understand the generally unrecognised issue of sleep apnoea and its relationship to fatigue.

I would like to thank all those who have generously given of their time to come here today and to assist the committee in its inquiry. It promises to be a very interesting and informative day.

[8.49 a.m.]

**HICKS, Mr Stuart, Chairman, National Road Transport Commission**

**MAKEHAM, Mr Peter, Director, Safety and Environment, National Road Transport Commission**

**MOORE, Mr Barry, Director, Strategy and Programming, National Road Transport Commission**

**CHAIR**—I welcome representatives of the National Road Transport Commission. Before we start, I have to caution you that while you are not required to give evidence on oath at these hearings, committee hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament.

I suggest that you give us a five-minute overview of your submission. We will then break into questions and answers.

**Mr Hicks**—The commission greatly appreciates the opportunity to appear this morning before the inquiry. The subject we are all concerned with is something of profound importance to this nation. With the inquiry's indulgence, I would like to very briefly address two issues. Between the three of us, we would be pleased to address any questions. I would like to refer to two matters. I will very briefly explain what the National Road Transport Commission is and what its role is so that we can make sure that there is a context. I would then like to cover where we are up to as a commission and where the future, in our opinion, lies.

The National Road Transport Commission was set up in the early 1990s as a result of agreements signed by the nine Australian jurisdictions. Its responsibility, which was established by Commonwealth legislation, is to lead and coordinate the reforms of the road transport sector in this country. The commission reports to nine ministers for transport—namely, the Commonwealth minister, the six state ministers and the two territory ministers. We do not have authority to take reform in any direction other than the one which is approved by vote by the nine ministers for transport. Our particular interests have included the creation of a set of road rules to apply across the nation, uniform driver and vehicle licensing, mass limits reform and, most recently, performance based standards for vehicles. It has included a significant purview over the question of fatigue management as far as road safety is concerned. In a nutshell, that is the nature of the Road Transport Commission. It is a small organisation—it has about 20 staff—and is based here in Melbourne. It has six commissioners. I am the chairman of those commissioners.

As far as fatigue management is concerned, my feeling is that this is probably the best way to encapsulate how the commission has viewed the issue and what has been done. I see it as probably three layers of activity. They are sequential because they have addressed areas of particular priority and concern. The very first issue for the commission has been to come to grips with the fact that at the start of this decade the states which regulated driving hours each had a different approach. The sheer act of crossing a jurisdictional line meant that

something which might be legal in one state was illegal in another. There were different logbooks in different states. The measure of chaos was such that it really was not working particularly well.

In a minute I will come back, as I am sure the inquiry would like me to, to whether those driving regulations are the most appropriate. The highest priority was that they were already in place and were not integrated or coordinated in any sense. Stage one was to bring into the nation a measure of uniformity which reduced the anomalies which existed with the then system. In the view of the ministers and the commission, the most obvious priority was to get rid of that anomalous situation. As the inquiry would be aware, we have moved towards a national logbook system, with nationally consistent sets of rules, apart from those jurisdictions which have never regulated hours; they are not included within that national scheme.

The second issue of importance has been to move the legal, community and industrial focus away from drivers towards what we call the chain of responsibility, which is closely related to the concept of duty of care. Our sense has been that in embracing the challenge of fatigue management it was important to shift the focus away from simply the driver of the vehicle towards acknowledging that there is an entire chain of responsibility of which a driver is certainly a significant part. Others, be they consignors or management within the company or other users, have to wear some accountability, where appropriate, in the arrangement. That approach to responsibility is quite widespread in the legislation that the commission has been responsible for integrating. In many of our various initiatives, chain of responsibility is becoming reflected in the legislation.

The third layer of particular concern to the commission has been to recognise that driving hours are a very poor proxy for fatigue as far as driving is concerned. International research is moving at quite a pace to a better understanding of the various factors that contribute to fatigue. We need to ensure that with great rapidity there becomes a much clearer understanding that a person who has driven a vehicle is only one aspect of the fatigue issues that are required to be recognised. Our approach, therefore, has been to assist the nation to move towards true fatigue management and away from simply driving hours management.

The first step has been to incorporate and embrace within the legislation something we call a transitional fatigue management system. TFMS is designed to offer to those operators who are able and willing to embrace it a greater flexibility and, in turn, a greater responsibility for the management of fatigue overall. At the same time, as the inquiry is well aware, we have worked in a lead agency role with Queensland and the Australian Trucking Association in developing a full fatigue management pilot scheme, which will be proceeding through next year as it has in the last couple of years.

In a nutshell, that is where we have come from. First of all, we are sorting out anomalies in the existing system. Difficult though a great many of those have been, a great many of them have been sorted out. We have embraced a chain of responsibility and made sure that the focus becomes much more widespread than just on drivers. We have moved with the support and development of research into full fatigue management as quickly as we can. As I am confident the inquiry is aware, this is an international, cutting edge activity. There has been a great deal of interest in the work and research that has been going on.

**CHAIR**—Thanks very much, Mr Hicks. They are three areas that we wanted to look at. They are probably the three or four areas that we have concentrated most heavily on. I think you may have a slightly rosy impression of logbooks. The evidence we have received around Australia is that logbooks are a joke. The science of prostituting them is alive and well. It is not all done through malice; it is done because of these interjurisdictional problems. It is done because the logbooks do not recognise certain aspects of a driver's activity.

Probably the worst aspect of the logbooks is that Queensland is prepared to forgo them provided that the company in question has a defined fatigue management program in place. A typical example is Melbourne's transport, which has a very well structured and very well defined fatigue management program even involving the families of the drivers. We went out on the road. I recommend that the commission do that, because you do not get it in Canberra or Melbourne; you get it out at the truckstops in the middle of the night when the guys are there for their steak and chips or whatever else they may be eating. We went to Guyra. I was one of the reluctant ones, but I am now glad we went there. We will probably also go to Tarcutta one night to get a bit of a feel for the drivers on that Sydney-Canberra-Melbourne leg of the journey and to see what their views on it are as well.

**Mr Hicks**—Please do not misunderstand us. The commission's view is very close to what you have just expressed. There is no sense of rosiness about the logbook system that is in place. I am personally on the public record as saying that our ambition is to see logbooks dead and gone as soon as we possibly can. The question, as you know, is what replaces logbooks. Our first step, which goes back to the early 1990s when there was not anything like the public profile that this issue now has, was to simply get rid of anomalies with the logbook system whilst we proceeded with other things.

**CHAIR**—Nevertheless, it has been forced very heavily in New South Wales. One thing that disturbed us was that at Armidale we had a senior police officer who was not even aware that Queensland had a fatigue management program. How could a driver who perhaps did not have a logbook that was up to the New South Wales standard make it in New South Wales if the senior police officers have absolutely no knowledge of his situation?

**Mr Hicks**—Indeed.

**CHAIR**—It is a good challenge for the commission to try to get that cross-jurisdictional insight. I am not criticising your work; I am sure that you do it well. The cross-border, one-for-one activities probably need a bit of a push along.

**Mr Hicks**—They are profoundly important issues. The more national uniformity there is, the more consistent the approaches across jurisdictions. In my view, we will then move to a situation where the sheer act of crossing a border is not converting one act into a different sort of act. It should be fairly seamless.

**CHAIR**—I want to get the three things into a dynamic.

**Mr McARTHUR**—If you are agreeing with the committee that the logbooks are not really working, what is the trend to replace the logbook? What are you suggesting?

**Mr Hicks**—I will invite Mr Moore to respond to some of those questions. We have been involved in a significant trial in Tasmania, which looks at the prospects of there being more use of information technology and electronics than what we hitherto have used. There is some encouraging information from there.

**CHAIR**—If you cross the border there, you are in the water.

**Mr Hicks**—That is one thing, Mr Chairman.

**Mr McARTHUR**—Could you give us a feel for whether the federal government will put out a national logbook to overcome the problem the Chairman is alluding to?

**Mr Moore**—The commission has been working actively on behalf of all governments to develop a national logbook. It has replaced the various state logbooks over the last six months or so. Some of the problems—I am not suggesting all of them—that we have been confronted with should be removed as that national logbook gets into wider use. We are not suggesting that it is an answer. It is an answer to a small number of those issues.

Another initiative the commission has taken in conjunction with the states is to look at what has been called a driver specific monitoring device, which is an electronic alternative to the logbook. It integrates a driver specific card with the electronics of the vehicle to produce records which are downloadable at the operator base. One reason for doing that is that it is our view that the focus of enforcement should move away from the road and towards the operators. The records the operator ought to be keeping—increasingly, they will not be able to survive unless they keep them—are really the key to future compliance with this sort of prescriptive regime for the length of time we have it.

**Mr McARTHUR**—Are the state jurisdictions accepting the legality of the logbook you are developing nationally?

**Mr Moore**—Yes.

**Mr McARTHUR**—What is the legislative backup federally for that?

**Mr Moore**—The commission processes lead to legislative provisions which are passed through the Commonwealth parliament and which are adopted as a model by the other states and territories. So the legislative backing is law in each state and territory which has adopted this.

**Mr McARTHUR**—Has that happened yet? Has the Commonwealth passed any legislation?

**Mr Moore**—The Transport Council ministers have approved the legislation. I understand it has gone through the Commonwealth parliament. It has been adopted into legislation in Queensland, New South Wales, Victoria and South Australia. South Australia has not yet actually implemented it, but they have passed it through their parliament.

**Mr McARTHUR**—Could I pursue this electronic arrangement—we have had some other evidence on that. With your exposure to the logbook argument, would you be recommending this electronic surveillance of the driver and the truck as a way to monitor hours of work, rather than a prescriptive arrangement through the logbooks?

**Mr Moore**—There are two elements there. We are trialling the electronic logbook, if you like, as an alternative means of record keeping under that prescriptive regime, so at this stage that electronic device will not change those prescriptive hours of 12 and 14, et cetera. I would see the development of electronic record keeping as enabling much more flexibility in those hours. One of the problems with the prescriptive hours, as you would have noted, is their absolute rigidity. Whilst we maintain them, we have to be much more flexible in their application. In order to do that you have to get away from this antiquated enforcement method of a written logbook. The electronic record keeping will be a step in that direction.

**Mr McARTHUR**—The electronic record will be kept at the owner's base. We saw some evidence that there was black box type material so that owners could monitor the speed of the truck and the hours that it operated. Do you see that being developed?

**Mr Moore**—Yes. The technology is there now. It is a question of how we implement the technology with sufficient veracity and robustness, if you like, to enable it to be an effective enforcement tool. And here, again, you get these cultural issues coming in. I would say the more progressive enforcement people would like to shift that focus of their efforts to the operators and further up the chain of responsibility. Some of the on-road enforcers do not feel at all comfortable unless they can actually see something in the cabin of the truck by the side of the road, so part of the cultural change that we think is necessary is to work with the enforcers to move them away from this attitude of needing to see something there by the side of the road and have instant knowledge of what has happened.

The technology is certainly coming in at a very rapid pace. Increasingly, trucks on the road are equipped with communications devices and global positioning systems. The idea is to tap into that and use it for a range of compliance purposes. One of the urgent ones would be electronic logbooks.

**Mr McARTHUR**—Can I get a feel for the different states' attitudes towards logbooks and the electronic devices. We have got an understanding that New South Wales seems to be different to Queensland and Victoria. Have you picked that up in your discussions?

**Mr Moore**—There are certainly cultural differences through the country. Western Australia and the Northern Territory, for example, would argue—and you have had this argument put to you—that prescriptive hours are not the way to go at all and that there is an alternative approach which is a better approach. Tasmania has driving hours, but they do not require logbooks, so they have driving hours but do not require record keeping except on an exception basis. The ACT has not been too worried about it because it is not really big enough to get very fatigued in, I think. Down the east coast and into South Australia there are cultural differences. Probably the strongest believers in enforcing the current type of system would be New South Wales—they are most active in that area. I would say there is a little bit more flexibility in the other jurisdictions.

**CHAIR**—The other thing I want to move to is your second point, and that is the chain of responsibility. There are two aspects to this. The first is that we met a number of seemingly very responsible transport companies or spoke to the drivers of seemingly very responsible transport companies that had ostensibly well regulated hours. However, what we are discovering, what the companies are not telling us, is that especially on the Brisbane-Sydney leg—and I imagine it is similar on the Sydney-Melbourne leg—the driver will often be held up for four hours getting a slot to load his vehicle and then, when he gets to the other end, unless the supermarket chain or whoever he is dealing with has a well-organised slotting system, he can spend another two or three hours at the other end.

**Mr McARTHUR**—Or six hours.

**CHAIR**—Or six hours. It is not uncommon for a driver to be donating, so to speak, to the company another seven hours on top of a 12- or 14-hour run. Somehow that passive time has to be integrated into the chain of command. And it is not always all that passive either. Sometimes it involves the driver doing the loading and unloading; it does not always mean that he just uncouples and then couples up the next trailer. That is something I would like you to comment on.

The other thing relates to the Don Watson case here in Victoria—are you familiar with it?—where the transport company was prosecuted because of the chain of responsibility in matters related to fatigue. What we are looking for from the commission is a bit of a direction on two things. One is how this passive time can be integrated into the hours of duty or at least into some comprehensive chain of responsibility regime. The other one is: what are your views on prosecutions on a chain of responsibility basis?

**Mr Moore**—I can answer that one. In the case of the loading slots, one of the purposes of the national legislation was to clarify definitions of what is driving, what is work and what is not covered by either, which is, implicitly, rest. Waiting in a queue for a loading slot is defined as being either work or driving and is covered by the prescriptive hours. The only circumstances where that would be regarded as not being duty time, if you like, would be if that loading area provided rest rooms, et cetera, and the driver was able to park his truck, get well away from it and go and rest properly. That would be the exceptional case. I am not aware of any, or possibly only a very few, operators in Australia where that is the case. So generally, when a driver is waiting for a slot, that is regarded as duty time and his prescriptive hours are clocking up.

By all reports it is an enormous problem, and it is an enormous problem throughout the country. One of the purposes of chain of responsibility is to address that. We framed the words in that legislation with that in mind as one of the circumstances. Quite frankly, we are not going to know whether those words in the legislation work until they have been tried. What we need is one of the jurisdictions which has implemented this legislation to run a prosecution against one of those companies. If the prosecution is successful, there is going to be an enormous impact right through the industry. If the prosecution is unsuccessful, we have got to go back to the drawing board and look at amendments to the legislation.

**Mr McARTHUR**—That is a pretty fundamental question and you are saying that it depends on the outcome of one case on loading and unloading. We have had a lot of

evidence on this, that people are being pressed to meet a deadline at 7 a.m, then they spend six or seven hours in the yard. You are saying that unless you win a court case that whole argument is still in limbo?

**Mr Moore**—What we are saying is we have drafted legislation with that in mind and the words in that legislation are quite strong. It says:

A person must not ask, direct or require, directly or indirectly, a driver to do something if the person knows, or reasonably ought to know, that by complying the driver would, or would be likely to, commit:

- a) a core driving hours offence; or
- b) a driving record offence; or
- c) a speeding offence.

That legislation was drafted by the Commonwealth drafters with the intention of capturing the chain of responsibility, including that sort of situation. As with all legislation, we are not going to know if it has that effect until there is a history of court cases. To my knowledge, there has been no court case yet attempted under those sorts of provisions. But the provisions are new. They have only been implemented in New South Wales and Queensland in very recent months.

**Mr McARTHUR**—We had some very strong evidence from some of our witnesses that the real problem of the interstate run was not so much the 14 hours from Sydney to Brisbane, but hanging around in Brisbane for the next six hours unloading the truck and then being almost forced to load it again ready for the next run back home.

**Mr Moore**—Certainly. I think there are already some changes in those areas. We already have people like the Australian Trucking Association going to the consignors and saying to them that this stuff has to change. The reason these words were drafted in that way is that we wanted operators to be able to leave these words with the consignors and say ‘Look, be aware that is your responsibility if they are spelled out in law.’ In the past they were attempting prosecution through very indirect means. They were trying to use provisions like aiding and abetting and complicity, where it is very difficult to get evidence and successful prosecutions, or they would try and use occupational health and safety provisions. There were many attempts in the past to use what we would now call chain of responsibility. The attempts were mostly unsuccessful because the legislation was not clear. What we have tried to do is expand the legislation and make it clearer.

**Mr McARTHUR**—I think we should have a reference on that legislation as a matter of evidence.

**CHAIR**—Could you give us a copy of the legislation you are referring to so we can have a look at it?

**Mr Moore**—Yes, certainly. The quote that I read out was from the submission we have given you. I am not across the detail of the case of Watson. My understanding is that the prosecution was taken up under occupational health and safety legislation which is part of a

beginning trend. Occupational health and safety has left road transport relatively untouched over the decades. My speculation is that they have done that because they have said, 'There is a body of transport law there. We have enough to do looking after other industries. Let's leave transport alone.'

**CHAIR**—On that point, let me pose another question. In the view of the commission, should fatigue management programs be made a dimension of occupational health and safety or should they be an absolute requirement of the trucking company receiving its quality assurance? In other words, if you do not get your quality assurance you cannot, for example, do any state or federal government contract work. It would really limit your ability if you did not have that as part of your quality assurance program. Where do you think that should slot? Should it slot in one or other or both? There has to be some rigour applied to make sure that companies will adopt fatigue management programs. What is your view on that?

**Mr Moore**—I think it does apply under occupational health and safety because it has a generalised duty of care. People throughout the community are increasingly realising that duty of care includes fatigue.

**CHAIR**—Is that the wisest option? I can understand that there will be the odd prosecution. Is that your preferred option or is that just going to set off a lot of cranky drivers suing a lot of companies? Are you just going to have a repeat of the medical profession and the legal profession in the trucking industry, rather than go to the core, which is the management of fatigue? Will you have everyone suing after the event rather than getting up front and solving the fatigue problem at the front end of the issue?

**Mr Moore**—I think you have identified the core issue in the next national transport approach to fatigue management. Is the best thing to supplement occupational health and safety with clever road transport regulation or would the best thing be to remove road transport regulation and allow occupational health and safety to rule by itself? You have been briefed on the experiment that is being run at the moment in Western Australia. They have put in a code of practice under road transport to apply under the occupational health and safety legislation. It is early days yet to judge that. I think what we will be doing is looking at the success or otherwise of that approach. Certainly some who were cynical a couple of years ago are now sitting up and taking much more notice.

**CHAIR**—So your view is that you will not come down heavily one way or another until you see a few of these trials.

**Mr Moore**—I think the issue needs to be explored more thoroughly. There are attractions in the occupational health and safety approach. One of the issues is whether that is going to work in an industry which is dominated by many small operators and looking for certainty. They do not want to have to wait until they go to court to know whether they have done the right thing. They need to know up front. I do not know the answer to that.

**CHAIR**—Say I am a national transport company and I am not so much a cowboy but I have a few cowboy practices. I push my drivers a bit and I am not having any of this bloody fatigue management in my company. All of a sudden, I am informed by the state government, or by some appropriate agency of government that, if by 1 January 2001 I have

not got an auditable fatigue management program in place that contains the following aspects, I lose my quality assurance rating and I will be no longer eligible for all these contracts. I think I would be more frightened of that than I would be of the odd prosecution.

**Mr Moore**—I think that will apply more to the larger companies who are more heavily involved in the quality end and have adopted quality assurance principles. Many of the smaller companies are still a long way away from quality assurance. In fact, they are even finding TruckSafe, which is some way short still of quality assurance, to be a major hurdle. I think the unusual feature of this industry is the fact that it is dominated by smaller operators. The larger operators are very unusual and are the exceptions. The real issue is how we can apply these approaches in this industry which is so dominated by smaller operators.

**Mr GIBBONS**—What sorts of mechanisms do we put in place to ensure that the smaller companies implement decent fatigue management plans? What sort of incentives could there be? Could there be some insurance benefits? How do you see that impacting on the smaller operators?

**Mr Moore**—I think that is happening already. My impression, from talking to companies and to insurance companies, is that the insurance companies are now much more refined in their risk assessment processes. This has been happening over the last few years and is happening increasingly. The heavy vehicle insurance companies in Australia are very well briefed on these issues and they have been employing some of the experts themselves. I think that is going to happen and is going to be market driven. Some of the companies who have been going into FMP have experienced that already.

In general, smaller companies look for more certainty than larger companies look for. Larger companies can look at the principles, employ experts and determine how they can best respond. With smaller companies, it is much more difficult. They are looking for something much closer to a set of rules. I think you will find that it is the smaller companies who have had more trouble wrestling anywhere with performance based approaches. This is the element that has to be looked at in the future. Under a mixed regime where some companies will adopt the full fatigue management approach, a la Queensland Transport and Australian Trucking Association, how do we deal with the others? Maybe there is a role there still for some sort of prescription in that approach, but that prescription still has to be much better aligned with road safety principles and the fatigue research than the current hours are.

**Mr Hicks**—I think implicit in Mr Gibbons's question is that recognition that we have that training and we help people to understand that fatigue management is profoundly important, but it has not been in place in so many of those companies in this nation.

**CHAIR**—We do not achieve anything, do we, if we turn it into another area of litigation and do not solve the problem?

**Mr Hicks**—You are absolutely right. That is where many of us, including I suspect the inquiry and the commission, would have similar views on this. Many of us are fearful that prescription is a situation which takes accountability and responsibility away from people. It is really saying, 'There is a set of numbers and a set of constraints. If you fit in that, then

you are not tired.' The question of fatigue and driving is much more complex than simply having a set of numbers or a box within which people can legally operate. What we are doing in this nation, as well as in any other country that I am aware of, is moving that step to help the various people in that chain understand the complexity of fatigue management. The judgments that ideally ought to be made ought to be made by the people in that chain of responsibility.

If we try to legislate in an entirely prescriptive sort of sense, it might suit certain people but there is always the danger of throwing the baby out with the bathwater; we are not increasing the sense of accountability. The way past that is to have training and education out there at all levels sufficient for people to be making much better informed judgments.

As we go there—and I am an optimist in this—I think we have made significant progress in the last five years. Certainly, in my involvement in 1994-95 when I was Director-General of Transport, Western Australia, and we were starting that Western Australian experiment that we referred to before, we did really feel that we were very much out on a limb. As Mr Moore has said, I think some of that now is starting to be recognised as another approach.

**CHAIR**—This might not be totally relevant to this inquiry but, as I go around my own constituency, I find that small businesses are fed up to the back teeth with prescription, laws and rules and threats of prosecution, whether it be workers compensation, occupational health and safety, environmental constraints or equity issues—it is all rules, regulations and threats of prosecution. Far from stimulating business and making people positive about solving these problems, it is having the exact reverse effect. People are saying, 'I will scale down the business so that I can avoid as many of these things as possible, and I am not going to confront them because I will probably lose anyhow and I will be prosecuted', rather than saying, 'This is a new era, and we need to tackle these problems in a creative and constructive way.' I would hate to see this transport industry affected. I am not speaking politically now, but one of the plus sides of the GST and the tax reform regime is that the trucking industry will probably be the great national beneficiary insofar as the cost of trucks, the cost of components for trucks and the cost of fuel are going to fall dramatically in about nine months, and it would be a pity at a time when the industry can really reform itself, and has the capacity to reform itself, if that were lost in a lot of prescription.

**Mr Hicks**—I agree 100 per cent; that is precisely the commission's view in relation not just to these regulations but to a lot of others in which we also have some involvement. The Australian trucking industry has, on quite authoritative measures, one of the best efficiency records of anywhere in the world. It has achieved that record with a high measure of competition and the single-minded determination of a large number of people. We have got to find ways of harnessing that as best we can.

**Mr McARTHUR**—With a big contribution by governments to the road network.

**Mr Hicks**—Indeed, and governments have a significant role to play. But, between us all—and I say this in relation not just to government, not just to the industry but to academia, to the unions and to the users of road transport—we have an obligation to our community to get on top of fatigue management because it is killing people. It is killing people and it is costing a lot of money. We can do it together, but we must not, I think, be

seduced back into ever greater degrees of prescription. I think it will be imperative that those people who show themselves quite incapable of taking a responsible approach to fatigue management ought to be out of the industry as quickly as you can get them out.

**CHAIR**—Yes, they are always doing that.

**Mr LINDSAY**—Gentlemen, this is an inquiry into managing fatigue in transport. At the moment, we are talking about road transport. What is your evidence? How do you suggest the Commonwealth might go in relation to this all-encompassing issue? Should fatigue in transport be considered as the whole issue in all modes—across all modes? How do you see what you do linking into some kind of national strategy? Do you support a national strategy across all modes?

**Mr Hicks**—There are number of aspects to answer in that question, Mr Lindsay. The first, of course, is that we are the National Road Transport Commission. Therefore, our accountability and responsibility is within just that particular profile. Having said that, the commission's view would be that everything that we can do to work the modes together in attacking this issue would be beneficial. We can learn from each other, and we can make sure that there is a more coordinated approach to the whole matter. Having said that, my final point would be that I myself am not convinced that the best way would be to somehow try to set up some umbrella authority that would try to manage that at that particular level, because there are horses for courses issues, and I am sure the evidence you have received in some of the transcripts I have read shows that there are special issues and different rates of progress in the different modes.

**Mr LINDSAY**—That is what I am trying to grapple with. When we come to report, what do we recommend? Do we recommend an across-all-modes something or other? Do we recommend it as mode specific?

**Mr Hicks**—My personal view—and we have not discussed this at the commission—would be that we need to be a bit wary of an overall umbrella organisation, because a lot of the detail, the nitty-gritty, will still be done at the modal level, and if we are just adding another layer into those degrees of bureaucracy, I personally would want to be convinced that it is adding sufficient value. By all means, let us have better communication, better coordination, some form of clearing house, various ways of bringing people together, but I would be wary of something that tries to put an umbrella over the whole thing.

**Mr McARTHUR**—Would you have federal legislation to help sort out this interjurisdictional problem?

**Mr Hicks**—Again, I would be wary—from an experience in the commission. Let me just touch on that. Something that makes the National Road Transport Commission unique is that we are accountable to nine governments. It might be said by some people with a smile on their face, 'It is very difficult to please one government, let alone nine governments simultaneously,' but the benefit of it is that nine governments need to get together through our particular processes. It is not a sense of a big brother making some particular decision one way or another. When nine ministers come to the starting blocks and the gun goes off, then I think we have a concerted effort which we will not get if we imply that it is

exclusively the responsibility of one jurisdiction or another. Most of the aspects of fatigue management tend to be state and territory type responsibilities because that is where road transport lies.

**Mr LINDSAY**—The national unions are giving us evidence that they would like to see an overarching federal system right across Australia, because they are very concerned about this fractured position across the state and territory governments. You are saying you report to nine governments, but wouldn't it be a simpler system if there was just one set of rules, one standard, and there was no opportunity for state jurisdictions to put little nuances in their legislation?

**Mr Hicks**—We have a federal system with which we have to live, in particular in relation to road transport, of course, where the constitutional authority largely lies back with the states. Whilst it might be simpler in certain ways, the reality is that the states and territories have significant responsibilities in their own right, and I have no sense that they would be anxious to cede those responsibilities to some overriding area. That is, of course, not the same as this in some of the other modes. In aviation, for example, back in the 1920s, the Commonwealth was given such responsibility, but in relation to road transport that is, I think, the reality now.

**Mr LINDSAY**—I am mindful of the time, so I just need to quickly move on. Why do you think that private companies have taken up their own fatigue management programs across the country and not waited for an authority to come down and say, 'This is what you should be doing?' Why do you think those companies are doing that? In what they are doing, they seem to be very far-sighted. What is your response to that?

**Mr Hicks**—A number of things. First of all, many, if not most, of those companies are very aware of the different layers of approach that I mentioned at the outset, which include from the commission, from governments, a clear indication that we encourage the embracing of a fatigue management scheme which is already in place and has been embraced by something over 1,000 companies already as part of that process.

Secondly, I think the amount of information that is available to companies now which was not available five years ago helps them to understand that it makes good business sense, as well as good moral sense, to manage fatigue rather than simply treating this as a case of turning a blind eye and cheating on logbooks. That is part of the reason why I am as optimistic as I am that the momentum is there for significant change. I should also add that it has been strongly supported by the Transport Workers Union at that particular level which also gives it that same impetus.

**Mr LINDSAY**—As a subset of that, we talked about the chain of responsibility earlier, and you said there have been no prosecutions launched under the new legislation. Is that because fatigue in road transport may not be the problem that we think it is? In other words, is this coming out of left field a little bit? Is it because the industry is not concerned and that there is not an issue here?

**Mr Hicks**—No, I do not think that is the case at all. I might be proven wrong but I see no evidence to feel that that is the case. I feel, rather, that it is the reverse. There is an

increasing embracing of that. Why there are no prosecutions has much more to do with the fact that it is brand new legislation and it will require the passage of time for that corpus of legal decisions to build up.

**Mr LINDSAY**—Yes, except there is ample evidence that things are not right, but no prosecutions. Just moving on to the driver specific electronic record which you talked generally about, what physically is it? You said it links into the vehicle.

**Mr Moore**—We can give you the reports on that, but what is being trialled at the moment is a device on the vehicle and a device like a credit card which is specific to the driver.

**Mr LINDSAY**—So the driver keeps the card and swipes it in the vehicle.

**Mr Moore**—Yes. The records are kept both on the card, which is a smart card with a memory capacity, and also on the vehicle.

**Mr LINDSAY**—But the driver does not need to swipe the card.

**Mr Moore**—The vehicle will register which driver input that information and the card will register which vehicle he was in at the time. The driver also has to be able to key in information because the card and the vehicle will only know when he was driving the vehicle. The other element of prescriptive hours is work. The work time has to be put in externally.

**Mr LINDSAY**—Thank you.

**Mr McARTHUR**—Where do you see fatigue management? Is it a first order issue compared to B-doubles, road construction, road maintenance, interstate regulation logbooks? Where do you see it in the scheme of things? Is it a first order issue or is it middle ranking?

**Mr Hicks**—Fatigue management in the view of the commission is one of the highest order issues to do with the reform and development of the road transport sector.

**Mr McARTHUR**—The highest.

**Mr Hicks**—One of the highest. It ranks amongst the most significant ones.

**Mr McARTHUR**—So the commission is putting a lot of resources into this whole debate.

**Mr Hicks**—It is.

**Mr McARTHUR**—Thank you.

**CHAIR**—There is one area I wanted to touch on but I think we have run out of time. I am conscious that the Transport Workers Union has a very intense interest in this as well. I would be interested to hear from you—maybe one of you might be able to come to Canberra

some time in the future before we wind up or put it in writing—what your views are of some of the science that is going on, in particular Professor Drew Dawson's work on fatigue management through computer analysis.

The second one is your view of apnoea and other matters that Professor Dinges is working on—and alertness mechanisms, especially in the trucking industry. It could be used in rail as well, I suppose. The third one is the work that Professor Wlodarski is doing here in Melbourne on sensor technology identifying carbon monoxide and carbon dioxide in the cabins of vehicles. Is the commission doing any work on that?

If you could let us have a bit of that in writing or, if you want to speak more generally, you can get in touch with the secretariat and perhaps one of you can come to Canberra some time and brief us on that scientific side and where you see what the commission is recommending to the states and territories in respect of that.

**Mr Hicks**—We would be very pleased to do that, and indeed to assist the inquiry in any way we possibly can.

**CHAIR**—I am sorry, Mr Makeham, you did not get much of a chance today. Your skills in this field are well recognised and I apologise that we have run the questions a bit slanted one way.

**Mr Makeham**—I think this next set of questions might be more in my field.

**CHAIR**—Yes. I was just about to say we might get some feel from you on that. I am sorry we have run out of time. But, once again, thank you for your participation and, if we can address that inquiry that I just mentioned one way or another, either in writing or perhaps a couple of you coming to Canberra some time for another half hour session, it would be most useful. You might be able to tie that in with a visit for some other reason.

**Mr Hicks**—We would be pleased to.

**CHAIR**—As you know, as is the custom, you will receive a draft copy of the *Hansard* proof for today. Once again, thank you very much.

**Mr Hicks**—Thank you, Chairman.

[9.40 a.m.]

**ALLAN, Mr John, Federal Secretary, Transport Workers Union of Australia**

**CHAIR**—I welcome Mr Allan from the Transport Workers Union. I apologise for going over time, but you have been sitting in the gallery and will understand why we were pursuing that line of questioning. We could probably have done with another half hour, so we will have to pick that up later. But I do not want to cut into your time because it is equally valuable to us.

Mr Allan, I have to caution you, as all witnesses, that although you are not required to give evidence on oath, these are proceedings of the federal parliament and the same respect attaches to them as is attached to proceedings of the House of Representatives itself. Any false or misleading evidence is considered a contempt of the parliament, or may be considered a contempt of the parliament. I just have to pass that on to you. Would you like to give us a five-minute overview of your submission and then we will break into questions and answers.

**Mr Allan**—Thank you, Chairperson and committee members. The Transport Workers Union is very active within the road transport industry. To give you a bit of an understanding of it, out of our membership, some 60 per cent of our members work in the road transport industry. Of that, 20 per cent are actually owner-drivers, small business people who own their own trucks and work for a company. On the basis of that we have put our submissions to you in this committee predominantly around road transport because we see that is where the biggest concern is.

In our submissions we go through the causes of fatigue, the contributing factors, the consequences of fatigue in the road transport industry and some initiatives that are being taken in order to address the fatigue issue. Since 1992, the Transport Workers Union has worked with the industry, possibly with 100 per cent cooperation in trying to address safety in road transport. Prior to that we used to do it industrially and we found out it did not necessarily work because the conflict was between the parties rather than the parties working together and getting some good legislation in place. We have always argued that the fault out on the road is not necessarily the driver. Quite often it is the company that they work for, and more often than not it is the customer that that company works for as the contributor to drivers having to work excessive hours, drive speeding vehicles and so forth.

So I suppose I look at it this way: society would never comprehend if an airline pilot jumped into a plane in Sydney in the morning, did a few domestic runs down to Melbourne and across to Adelaide, and then that company says, 'Well, you have got to be in London overnight.' Society would be horrified. It does not happen. It does not happen because of three factors: one, the companies do not allow it to occur; two, industry standards do not allow it to occur; three, there is damned good legislation which prohibits it.

If you work backwards in our industry, as I said, since 1992 we have been working with the NRTC on the various advisory councils. We work with the Australian Trucking Association—a very queer mix. It is the only union and employer body that deals with industry issues, and with that we now have legislation. So we have legislation—and you

heard from the NRTC that will not be tested until the first prosecution. We have industry standards that expect a driver to be in Melbourne, load the truck, unload the truck and be there the next day, whether it is commercial pressure or company pressure. And we have companies' expectations to do it.

In the old days we used to have major multinational companies that used to do the general freight driving, the warehousing side of it and long distance. As the long distance side of it became more competitive, they abrogated their responsibility and brought in subcontractors. What we are seeing now is a number of subcontractors, the smaller part of the industry, doing a lot of the long haul where fatigue is an issue. They are driven by various transport companies, freight forwarders or customers in regard to having to pick up the freight and get it there, not just in time now, but some of it is called 'must in time'. We have an agreement with one of the automotive manufacturers to ensure that there is no industrial disputation between Melbourne and Adelaide, as far as the TWU and the manufacturing unions are concerned, because if that truck is about 15 minutes late, effectively their line stops. So we have those types of agreements. That is how tight schedules are starting to become.

Our biggest concern is that we have fought long and hard, we have the legislation, it will not be tested until the first prosecution. We still have an industry that has an expectation out there of breaking the law because, 'It doesn't matter,' and we have a number of companies doing it. You asked the NRTC earlier about some of the standards of national companies. We are now in negotiation with national companies and we have asked them what their position is with the chain of responsibility. They do not have an answer. We have talked to them about what the legislation provides if we have a TWU member on the dock loading freight and is expected to load a truck when that member clearly knows that the driver is fatigued. We have asked them, 'What protection will you provide for that employee?' They do not know. Does that employee have the ability to say, 'I'm not loading that truck because I know that driver has worked all night and he can't do another leg'? The company says no, because it will be a secondary boycott—ACCC and so forth.

So now we are in constructive discussions with Allan Fels from the ACCC to try to get a model clause which we can put into industrial agreements, certified agreements, that provides some industrial protection where people can raise those safety issues without, say, the subcontractor or the subcontractors association trying to hide behind a secondary boycott provision if our member refuses to load a truck.

They are the avenues we are trying to explore. As to the answers, as I said, I think the legislation has been a very good step for us. We now have driving hours, we have speeding vehicles, we have the chain of responsibility in the road transport law. We have to make it work. Industry standards are slowly creeping up—very slowly, I might add. However, there is still a fair amount of commercial competitive pressure whereby companies are prepared to do the wrong thing.

We do not want to come here to bitch or whinge. Effectively, the South Australian Coroner—and we put it in our submission—asked five very pertinent questions in the investigation of the Blanchetown disaster. The driver is in jail doing a jail term and that company is still operating. We want to have someone answer those five questions.

What sort of incentives are in place for companies to do the right thing? There are some good companies out there who believe that they have a corporate responsibility to do the right thing. However, there are still a lot out there that do not. I believe it is probably quite simple in the long distance industry: your government has just introduced a GST and the diesel excise rebate. Just imagine if a company did not do the right thing and you took off their rebate. That is the only thing that would drive them. I will leave my comments there.

**CHAIR**—That is a very interesting view.

**Mr LINDSAY**—Taking up one of the points you just made, are you recommending that we consider recommending that the chain of responsibility, whatever that means, should be immune from prosecution or action if they intervene on a safety issue?

I am trying to get an all encompassing view and not just look at one of your members or somebody on the dock refusing to load a truck. If anyone at any point in the system notes that a driver is fatigued and they intervene by saying, 'No, we don't think we should do this or that to allow you to proceed', should they be immune from any kind of action of government, if it is a safety issue?

**Mr Allan**—Certainly, by all means. Under some WorkCover legislation, that is a requirement in some states. Unfortunately, WorkCover is not all encompassing in the road transport industry.

**Mr LINDSAY**—I asked the National Road Transport Commission why there were no prosecutions at this stage. They seemed to respond by saying, 'It's just early days.' I think we all know that the law is being broken every day but there does not seem to be any sense of urgency or any move to do anything. Why is that so?

**Mr Allan**—I think it is because the industry allows it to occur and what has been seen is that they all try and blame one another rather than try and pick up the fault and try and address the fault. In our discussions with the ACCC, I said to Allan Fels, 'I enjoy coming down and talking with you because normally when we stop talking you cost us a lot of money.' His point was, 'Maybe you're looking at the wrong area. Why don't you look at the corporate law and the corporate responsibility of various transport companies to ensure that they do obey the law?' I said, 'Why should we be spending union funds in the courts in trying to address this issue? Why can't we address it as an industrial agenda, as an agreement between employer and employee, that they will recognise the chain of responsibility and, if they have contractors in there who do not adhere to the various laws, they stop using those contractors without any fear or threat of a secondary boycott provision?' He agreed in principle to that and we are now working with their regulators on trying to get a model clause provision.

**Mr LINDSAY**—It is our responsibility to look at fatigue in all modes of transport. Your evidence was that 70 per cent of your members are in the road area but you have members in other modes.

**Mr Allan**—Yes.

**Mr LINDSAY**—What are some of the issues in other modes?

**Mr Allan**—If you look at the aviation industry, for example, fatigue is not necessarily a big issue because of more or less the company standards in as much as they can only work for so many hours on the particular task. With respect to the warehousing side of it, fatigue is a bit of a problem with forklifts, because it seems that although you might only be able to drive for 14 hours, there is nothing to stop you being able to put in a few hours in that yard, driving a forklift—for example, as you finish your shift. So that is a concern for us in that area.

**Mr GIBBONS**—In your submission you mentioned that there was an inadequate number of truck stops along the highways. Would you be able to put a figure on how many there would need to be to try to make it safer. Also, what form would they take? Do they need to be restaurant-type venues, or could they be adequately shaded parking spots with toilet facilities? How do you see those stops being set up?

**Mr Allan**—I cannot put a number on it. We have participated in the truck stop committees and so forth and were fairly active in getting the truck stop between Goulburn and Yass, for example. If you look at some of the Victorian truck stops, they are very well provided for. VicRoads have a firm policy on their federal highways to ensure that there are adequate rest stops and so forth.

**CHAIR**—When Professor Dinges gave evidence to us he said that in the United States they estimate that they are about 24,000 or 25,000 truck stops short. If you extrapolated that to the Australian population, we could be 2,500 truck stops short. I would just like you to elaborate a little on whether you are happy enough with the pullover areas. Do you need areas where there is shade and toilets, over and above the traditional main roads and RTA stop areas and in addition to the special truck service stations? Are there enough places where a driver can pull over in the shade, rest and use a toilet or whatever?

**Mr Allan**—No, there are insufficient. Our view is that there should be designated heavy vehicle rest stops. They should have adequate provision for entry and exit with safety. They should have provision for truck parking and so forth and not necessarily be disturbed by the general motorists who pull in or go to the toilet or park their caravan and so forth.

As far as the commercial side of it is concerned, that is a bit of a catch-22 situation. I now hear stories that people congregate up and down the highway at the commercial truck stop. They have a bit of a yak and a bit of a yarn and then they realise that they are late. Then they have to speed like all hell to make up the time. So it is a bit of a catch-22 situation.

There certainly needs to be a lot more work done within the truck stops and there needs to be more provision for truck stops. All too often, if you take the Pacific Highway in New South Wales, the truck pull over areas are normally full of gravel because road traffic authorities are using it as a stockpiling area. So it is a bit ludicrous in a lot of areas.

**Mr GIBBONS**—You mentioned before that 20 per cent of your members are owner-operators. I would imagine that the financial pressures on those would be enormous, with

lease repayments for trucks, et cetera. So would it be harder for you to convince them to have a decent fatigue management plan in place, than, say, a company that has five or six trucks and five or six drivers? Are those small operators their own worst enemy in that regard?

**Mr Allan**—The small operators have a hell of a lot of pressure in regard to the commercial side of the business and trying to meet deadlines. Whereas if it is a multifleet company, the chances are that they might put a second driver in. The employee driver does not get enough margins to be able to do that, so they have to complete the whole task themselves—loading, unloading, tarping up and making sure that they stick to the required timetable.

Yes, it is a very hard argument for the union, particularly our national driving hours, where we come out very firm and public. Our view was that 12 hours driving and two hours for loading and unloading, or work time, was sufficient. We had our owner-driver members saying that that does not allow us to be able to complete our task. Our view around the 14 hours was that that allowed an owner-driver to do, say, from Brisbane to Sydney quite comfortably. Unfortunately, it would not allow him to do from Brisbane to Wollongong. Yes, they were very critical of us for picking up and supporting the industry and the NRTC—we initiated a lot of it—whereas they should have some teeth within their driving hours legislation.

**Mr GIBBONS**—I have one final question. Does your union support the management of fatigue through occupational health and safety legislation or would you rather see a tightly regulated prescriptive hours regime within the industrial relations system?

**Mr Allan**—We are trying to have two bob each way in trying to have WorkCover in various states recognise the driving hours, and then we are having driving hours trying to recognise the WorkCover provisions. In a lot of cases, the WorkCover legislation is actually shown to work. However, the driving hours legislation is yet to be proven to work. I think there should be a fairly simple type of an arrangement where the driving hours provisions have some binding to occupational health and safety and occupational health and safety have some binding to driving hours provisions, where there is an actual standard provided that the companies must adhere to as their obligation and as their duty of care to their respective employees and contractors.

So at this stage it is a bit of a dog's breakfast out there as to whether people are prosecuting under occupational health and safety and so forth. As I said, we are forced into the situation now of trying to deal with it as an industrial issue, because we can find that we do not have to spend a huge amount of resources on litigation, which will only bring the industry back to where we were prior to 1992, where we were just fighting one another over a whole host of issues.

**Mr McARTHUR**—Can I congratulate you on the depth and the magnitude of your submission, but I raise two issues. The first matter is your view on the payment of drivers, whether it be on the per kilometre or hourly rate. I notice you refer to that in your submission. The second matter is intense competition at the subcontractor level. Do you have any view of how Professor Fels might look at that? It seems to me that the bigger

companies, and you referred to that, have handled the freight tasks but they have subcontracted the long haul interstate runs to the smaller operators and that induced this whole fatigue argument.

**Mr Allan**—Yes. In the first area, we have had a long distance award: it was a seven day a week award, 24 hours a day, and it was based on kilometres. The difficulty we had with the kilometre system was that people were not adhering to it and the level of compliance was fairly low. So we listened to industry argument that, maybe if we worked towards an hourly rate of pay on the long-distance side of it, it would give a better level of compliance. We have shown by evidence that that has not necessarily been the case, because the hourly rate has been open to abuse and, therefore, encourages speeding or encourages driving excess hours.

**Mr McARTHUR**—Why is the hourly rate open to abuse?

**Mr Allan**—The hourly rate can be manipulated. One of our examples shows that a company in an enterprise agreement will say that it is a 10-hour journey, so work the 10-hour journey and the rate of pay is whatever. However, realistically, the driver is probably doing a couple more hours and not getting anything extra for it. We have taken the stance in our submissions before the Industrial Relations Commission with our long distance award simplification process to remove the hourly rate and stick with the kilometre rate because it is a defined quantum that they will receive between Sydney and Melbourne or wherever. If they are loading and unloading then they still get their hourly rate of pay.

**CHAIR**—There are two dangers there. One is that the drivers might push themselves a bit to make a few extra bob and take on a bit more than they should. Perhaps you could respond to that for a start.

**Mr Allan**—Any type of incentive payment allows someone to say, ‘Yes, I’ll do an extra trip. I’ll do an extra day and it will get me a few bob on the side.’ Yes, the kilometre rate, as an incentive payment, could allow that to occur.

**CHAIR**—The other danger is the tendency for the employer to say, ‘I have to pay this bloke a lot of money for this trip. Therefore, I’ll get him to do the maximum amount of loading and unloading and bulk that into each end of his trip to reduce the per kilometre costs.’ Is there a danger of that as well?

**Mr Allan**—Yes, and that occurs as a current practice. I was interested in hearing your comments on the various fatigue management programs that are out there now as an alternative compliance, or what we are now calling smart compliance. There are only five companies in the trial for fatigue management in Queensland, but there is a second tier of about a dozen companies which are keen to get into it.

Our roundtable discussions have established that those companies have gone into fatigue management to try to have the right compliance. But their labour costs have increased by 10 per cent because they are not in a position to have the driver load, unload, and then carry out the journey. They have to have a second driver in to do it. When that company was not in the fatigue management program it was clearly evident, from their labour cost, that they

were expecting the driver to do the whole task rather than have the driver supplemented by other labour in order to comply with the law.

**Mr McARTHUR**—Keep going on with the hourly rate versus the kilometre rate. What about annualised salaries that are happening in some other industries, or weekly or monthly salary arrangements?

**Mr Allan**—The only area where that has worked is where there is a degree of control. In the fuel industry, for example, we negotiated through our enterprise agreements to have a six-day week industry that was operating 24-hours a day. One company pays by salary and the other company pays by a common hourly rate of pay. Because of the stringent standards in the oil industry, their hours of work are pegged to about 55 hours or 60 hours. In an environment where there are some regulations and some corporate responsibility, those concepts of annualised salaries, or a combined hourly rate of pay with meal allowances, overtime and everything else thrown into the one rate of pay, work extremely well.

However, when we tried to do it in our interstate award we found that the hourly rate became very much open to abuse, and we have given you examples of that. We have also given you examples that you can discount by having a bit of a tax dodge. You can gross and drive up a salary on, say, three trips to Sydney per week, but then you deduct from that a component to say, 'That is your overnight tax-free expenses.' By doing that you only get taxed on the bottom end of your salary rather than your total salary. We have given examples of that. Those practices are out there and are fairly rife amongst what we consider to be unscrupulous operators.

Where we have raised that issue, as an example, we have said to Tolls Transport, 'We know that company is in breach of hours. We know they speed. We know they are overweighing and we know they are not paying the right money.' When we stopped that by using industrial muscle, we have then come to the wrath of the ACCC. That is why we have gone to the ACCC, to try to get that model clause provision and a protocol that we can follow so that we are not having people using the ACCC as an excuse for bad work practices.

**Mr LINDSAY**—Your recommendation is to abolish the hourly rate and go for cents per kilometre. Wouldn't that encourage drivers to do more kilometres to get more money?

**Mr Allan**—That is happening now, whether it be hourly or per kilometre. Our view is that if you are paid by the kilometre you have a set schedule of payments to receive. If there is smart compliance and smart enforcement in the industry you then prevent that. Really, that is the company's corporate responsibility and duty of care, to ensure that does occur.

**Mr LINDSAY**—You make a recommendation about enforcement requiring consistency. How would you react to enforcement officers having something like random fatigue tests similar to random breath tests? Would you support that?

**Mr Allan**—We are supportive of very smart enforcement systems. If that is the case then we would be supportive of working towards that where people can take responsibility. Recently the NRTC had a seminar on performance in the industry. As a union we are quite

proud, we can work with our industry. It is very efficient and very productive and we think it is great. However, when we asked them if they could marry the performance side, the mechanical side of the industry, with the human factor and have a tie-in there so that the human factor has to be responsible also, the NRTC said it was too hard. When we talked to the enforcement people in VicRoads, the NSW RTA and the police, they said they did not have the resources. If anything, enforcement is becoming a reactive issue rather than a proactive issue.

**Mr LINDSAY**—Do your members report to you that some enforcers—and we saw some evidence on this in New England—are excessively bureaucratic?

**Mr Allan**—Yes. We have a very good reporting system within our long distance industry. We have seminars and forums throughout regional Australia with our long distance drivers. Yes, we have a lot of overzealous police enforcement. We have spoken to the police, we have attended their training sessions, and we have a fairly good relationship with them. I suppose it culminated in the Australian Trucking Association safety seminar in Albury Wodonga.

I was quite impressed by the Victoria Police who believe that the problem is not necessarily with the drivers, it could be with the companies, or, more importantly, with their customers. They are prepared now to go to a customer and advise that customer of their rights and obligations under the national transport law in order to shelter the road transport company from commercial pressure. So, in a lot of areas we have a very good relationship. But, yes, there are some overzealous authorities who seem more keen to get the infringement and the fine money rather than address the problem.

**Mr McARTHUR**—Concerning your example about the subcontractor who was breaking all the rules—breaking the speed limits and not paying his people—I did not get the final comment you made as to how you approached that problem. If he was subcontracting to one of the big five operators, what are you suggesting you could do about that?

**Mr Allan**—The difficulty you have with the small companies—and you must give them some sympathy—is that they say, ‘That’s all I’m getting paid. Therefore, the driver has to do excessive hours or has to speed or has to overweight in order to get a return for mine.’ We can prosecute the employer for breaching the award provisions, but that is not going to resolve the issue.

**CHAIR**—You are hitting the wrong man, aren’t you?

**Mr Allan**—Yes, we are getting the wrong person. Therefore, if there was a better return in the industry, that would improve things, but that is a commercial issue and I really do not know the answer.

**CHAIR**—It comes back to the chain of responsibility, doesn’t it?

**Mr Allan**—I think so. We were the ones who sponsored Professor Dinges to come from America to address our fatigue seminar here in Melbourne. There were 600-odd industry participants at Moonee Valley. We heard a lot of good ideas from Professor Dinges. We

actually engaged Professor Drew Dawson to assist us in developing roster arrangements, hours of work packages and so forth. So, there is a lot of work being done.

**CHAIR**—Are many companies using those now?

**Mr Allan**—No. Predominantly it is companies that are engaged in dangerous goods. The requirements now for dangerous goods require a very high level of responsibility. However, other companies do not do it, they seem to abrogate their responsibility.

**CHAIR**—What is the answer to that? Is there some subtle pressure you can put on? I am not saying that Professor Dawson necessarily is the be all and the end all, but he is the first one to confront the issue. He will probably refine his method as he goes along, but it would seem to me—and, I am sure, to the committee members who have seen it—that it is an extraordinarily helpful tool for a rostering clerk or a small company manager to get the best out of their staff without overworking them.

**Mr Allan**—Yes. All those provisions are available, but unfortunately the margins within the industry do not allow the smaller operator to have the luxury of those provisions.

**Mr McARTHUR**—Can I just go back to my problem of the five big transport operators subcontracting in such a manner that all the rules have to be broken. Could you get a suggestion of a chain of responsibility when it is obvious to all players that the subcontractor cannot meet the freight rate from the bigger contractor because, to do that, he would break driving rules, speed, hours—the whole lot—and probably the weight limits as well?

**Mr Allan**—There has to be some financial penalty to that prime contractor to prevent that occurring. Unless there is something that hits them in their pocket they are not going to change their attitude.

**Mr McARTHUR**—What would you be suggesting?

**Mr Allan**—I think I gave you a suggestion earlier.

**Mr McARTHUR**—The GST?

**Mr Allan**—Your government has introduced diesel excise rebates. If the prime contractors are found to be in breach of national transport law, stop their rebates.

**Mr McARTHUR**—How could you get that chain of responsibility from the prime contractor through to the subcontractor saying that, on all the evidence, they would have to break the rules?

**Mr Allan**—That is a corporate obligation, a duty of care obligation of the prime contractor. But in road transport, unfortunately, they are driven by financial needs, and unless you financially hit them over the head with a major prosecution which the NRTC is waiting for—I do not want to wait that long—you are not going to get a change to the system. There have been two WorkCover prosecutions here in Victoria of late. A driver is in jail. In one particular case the manager, who admitted guilt to the requirement that drivers

drive excessive hours and fast, got a \$3,000 fine. That corporate company got a \$15,000 fine, and their trucks are still running up and down the highway.

**Mr McARTHUR**—The subcontracting trucks or the major company?

**Mr Allan**—It was what we would call a medium sized company here in Victoria. Unless you really say to the manufacturers, to the national transport companies, that they are going to be punishable at cost for not adhering to their chain of responsibility they are not going to do anything. Unfortunately, they leave to the extent that a depot manager might be given that responsibility. If his boss is giving him a kick up the bum to get the work done, he passes it on down to the contractor and the contractor passes it on down to the driver.

**Mr McARTHUR**—Why have the bigger transport corporations moved their interstate operations to smaller subcontractors? What is the rationale for that?

**Mr Allan**—The rationale behind that is that there is no money in long distance transport; therefore they have gotten out of it. We have seen the TNTs, the Mayne Nicks and the Brambles effectively removed themselves from non-viable operations such as general transport and long distance transport. Where they do have the necessity to do that task, such as in express freight, they use subcontractors, and their attitude is, 'It is not our responsibility. We do not have to ensure that our contractors do everything properly. That is your problem. You go and sort it out.'

**Mr McARTHUR**—Why is there no money in long distance transport? Is that because of the intense competition or the regulations?

**Mr Allan**—It is a very competitive industry. It is competitive with rail, for example. Rail is starting to get its act together slowly and to create a bit of competition. But, generally speaking, it is very competitive and people go to the lowest denominator when getting their freight. For example, we have often been told that companies are now carting freight between Melbourne and Sydney for the same price as they used to charge eight years ago. That does not occur in many other industries because they just compete against one another. If there is a war between two national transport companies, they just underbid in order to try to capture the market and the only thing that is being driven down is the poor old subcontractor or the owner-driver who ends up having to do the task for very little reward.

**Mr LINDSAY**—You said that the average age of drivers is increasing. Is that also a factor in fatigue in that perhaps older people may not be so alert?

**Mr Allan**—It is a factor. Probably 18 months ago we put a lot of energy into trying to develop traineeship in the industry. We thought we would capture a new spirit and try to entice young people into the industry. We discussed with insurance companies whether they would remove the excess requirement for drivers who were under 25 if those drivers went through an actual training structure. A number of them were quite satisfied to do that, but at the end of the day we could not attract entrants. People did not want to come into the industry.

We then took the line of asking whether fathers would like to bring their sons and daughters into the industry, and their response was, 'Why? I am working 60 or 70 hours a week and I am never home. Why should I bring my kids into this industry?' So there is not too much youth in the long distance side of the industry. Our statistics within the union and within our TWU super fund show that people are 45 to 55 years of age and, yes, there is fatigue. I get much tireder now than I used to 20 years ago.

**Mr McARTHUR**—What about the upper end? We had some evidence that there was a problem because of non-compulsory retirement at 60 and that bus drivers, in particular, were not as capable after the age of 60. Do you have a view on that whole problem?

**Mr Allan**—Yes, that is a difficulty. In my time in New South Wales, we actually supported the state government of the day in bringing in the passenger vehicle licensing system and the requirement of medicals on a yearly basis. We support the NRTC's medical compliance where a driver now has to have a medical and so forth to get into the industry. However, the older drivers are finding difficulties with sleep issues, sight problems and so forth. Quite often we get into hassles with our own members when we say, 'Give the long distance game away. Why do you want to drive a bus forever and a day? Why don't you get alternate employment?'

**CHAIR**—Can I pick you up on that business of insurance. What is your view on having some reward system? Have you ever talked to insurance companies about a reward system for those companies that have a properly auditable fatigue management program in place? Obviously their drivers are not as prone to accidents and nor are their vehicles as prone to damage. What is your view on that?

**Mr Allan**—We fully encourage it. We have participated in discussions with WorkCover and insurance companies to try to get some incentive along those lines, where people doing the right thing get some reward. I think our statistics show that the road transport industry pays the highest premiums for WorkCover; therefore we have asked whether a company that is setting the standards properly can get a discount agreement. Unfortunately, that is not available. We also tried to work with the truck safety industry accreditation standard—I am on the industry accreditation council—to get that incentive arrangement.

**CHAIR**—Could you give the secretariat a list of the insurance companies you are speaking to on this matter? Also, would there be some point in the committee talking to the Insurance Council of Australia or to some subset of that or to some similar body about this matter?

**Mr Allan**—It certainly would be. There are only one or two predominant insurance companies, particularly in the long distance industry, and they are the companies we have been speaking to.

**CHAIR**—Who are they?

**Mr Allan**—National Transport Insurance, for example, participates in TruckSafe. NZI participated in our healthy eating initiative where we developed a booklet with assistance from—

**CHAIR**—Is that the booklet we have seen already?

**Mr Allan**—Yes. Zurich Insurance also participates in driver issues. We are talking now to a number of insurance people about the concern in our industry of the level of suicide. Our superannuation fund deals with death claims, and a fair proportion of those death claims concern 45-plus-year-old men who have committed suicide. We are talking also with Lifeline to try to get some counselling provisions. But if a company can provide all those sorts of things, there should be a reward in it. In the commercial sense, they are not going to get a better rate. The manufacturer just wants it done for X amount; he does not care about the level that it is going to be done at. However, there should be some rewards on the basis of cheaper WorkCover premiums or on some other basis.

**CHAIR**—Could I take you to a slightly different matter we have not touched on yet? You recently completed a survey with your New South Wales members. Is that information available? Could we have a look at that?

**Mr Allan**—Yes, the information is available. There have been questions asked about the results of that survey and next week I am speaking with—

**CHAIR**—I do not say that in any critical sense. It would enhance our report if we could get a handle on things like that.

**Mr Allan**—No, that is fine. I am speaking with the Federal Office of Road Safety in Canberra next Friday in order to compare our survey and the statistics we have achieved with the statistics they have.

**CHAIR**—What was the general outcome of that survey?

**Mr Allan**—The general outcome is that there is huge pressure out there on employee drivers to break the law.

**CHAIR**—Finally, you mentioned that you sponsored Professor Dinges and that you worked very closely with Professor Drew Dawson. You then mentioned suicide. Have you done work with Professor Wlodarski at RMIT?

**Mr Allan**—No, we have not.

**CHAIR**—Are you familiar with his work?

**Mr Allan**—No, we are doing work with the Victorian coroner in that particular area.

**CHAIR**—He came up with an interesting thing in his studies on suicide with carbon monoxide and that was the effects of carbon dioxide in both passenger and other vehicles. He was suggesting some sensor technology that would trigger a cabin response by way of a light or a beeper, or perhaps both, and then the disablement of the vehicle if the driver did not respond to it. Have you any comment on that or you are not familiar with it at all?

**Mr Allan**—I would be very supportive of it. Professor Dinges ran through a number of scenarios there. It is quite interesting in today's technology: if the oil pressure of the engine starts to drop, the vehicle can go into an automatic close-down. If the driver starts to nod off and fall asleep, the vehicle keeps going. Technology is at the wrong end; technology has to move into the driver's cabin. I might be a pain in the backside to the NRTC at times, but I have tried to push them into the driver's seat. If technology is going to be favourable, make sure it has got a human factor to it. If they can disable the truck when the engine is losing oil pressure, why can't they disable it when the cabin has got fumes.

**CHAIR**—Yes, and I would recommend that you contact Professor Wlodarski because you are obviously talking to those sorts of people.

**Mr McARTHUR**—How is your healthy eating program going? We saw some of that at some of the truck stops. Are you winning or losing that argument with your members?

**Mr Allan**—It is very hard to tell your member, as a union member, that he is overweight and he drinks too much. However, it has had very good acceptance at the family end. We have found now that we talk to the family rather than to the union member on the need for healthy eating and things like that. Besides, it saves them a dollar; they get ripped at the truck stops and they normally get only rubbish. Yes, it has been a very difficult exercise.

**Mr McARTHUR**—So you have directed your attention to the wife of the truckie to bring about a change? And is there a change of attitude creeping in?

**Mr Allan**—Yes, very much so.

**Mr McARTHUR**—What about the bit of exercise at the truck stop?

**Mr Allan**—No, that has not worked. That has not worked at all. As I said, truck stops are places where you stop and you have a bit of a chinwag and you tell a few stories.

**Mr McARTHUR**—Yes, but what about the swimming pool and the shower? We saw one truck stop where that was being encouraged.

**Mr Allan**—It does not necessarily work. We have tried to get a program out in Mildura—I do not know whether you saw the truck stop out there—where the truck would pull up and get air conditioning. Rather than just sit out in the car park at the truck stop, they have got portable airconditioners and you put it up to your window, but it has got a commercial cost to it. The companies will not pay for it and the drivers cannot afford it. In those areas, there are a lot of good concepts, but the reality of life is that if they had staged driving arrangements, there would not be a need to have to do overnights, or if there was a need to have an overnight or rest, it should be just a large area where the truck can park safely off the road. The driver should be in the cabin where he can get in a sleeper bunk and have a good sleep.

**Mr McARTHUR**—We have had some evidence on Sydney to Wagga and back again and making the home location Wagga. Would you just give us a brief comment on that?

**Mr Allan**—The companies that do overnight express work between Melbourne and Sydney, for example, have the driver go through to Tarcutta, four and a half hours from Melbourne. He does the changeover and might have to wait half an hour or an hour. He has a rest break there and is back home at six or seven o'clock in the morning. Those companies very rarely have vehicle accidents. However, when they go away from that and use a subcontractor is when the drivers work in Melbourne and then overnight into Sydney—

**Mr McARTHUR**—So you are seeing the real commercial incentive on that: they could save the half-million dollar rigs. They have very few accidents. You are seeing that in statistical and hearsay evidence?

**Mr Allan**—Yes. I have had an example of that. A company that is in a niche market does haulage for most of the express freight companies. It only carts the express company's freight. They said to me that they used to be up to some bastardry practices, and they were, and they are now into fatigue management programs. We have assisted them through our enterprise bargaining agreement to try to get some more flexibility for them and they have introduced staged driving. However, the drivers do not accept the staged driving, particularly east-west, because they do not want to be left out in the wilderness for an eight-hour break. They want to go back home or go to the next town. It has been a bit of a problem. However, if you could do the Melbourne-Tarcutta return sort of thing in your shift as a long-distance driver you are much more alert and you are much better off. I might say you get better paid for it, too.

**CHAIR**—We noticed in Guyra that the shire council is cultivating the idea of inviting drivers and service companies to move to Guyra and to use that as a base so that the driver goes into Sydney or Brisbane and then back to Guyra that night, rather than having to live in a barracks or a motel. It does two things. It brings the driver back to his home and makes for better slotting arrangements in Sydney and Brisbane. What is your view on that?

**Mr Allan**—Regional Australia is where the long-distance road transport is. There would be more long-distance truck drivers in Shepparton, for example, than there would be in Melbourne, so it is not a new concept. I am fully aware of the Guyra part of it, but I do not think Guyra is ideally situated to be a half-way house between Brisbane and Sydney.

**CHAIR**—Yes. The final thing is what is the union doing with apnoea? You can take two views of apnoea. If someone has got apnoea, turf them straight off the road. That is the legalistic health-type look at it. The other one would be to teach the drivers how to manage the problem. Where does the union stand on that issue?

**Mr Allan**—We are participating in a program with someone—I am not too sure of the names—at Austin Hospital on sleep apnoea. They are surveying our membership in Victoria, New South Wales and Queensland. We have a view that apnoea should be able to be recognised and, more importantly, there should be a process of rehabilitation rather than, 'You are not fit to drive therefore you can't work for our company'. We believe there are provisions under WorkCover. Rehabilitation programs should be in place. The drivers should be able to get alternative work and, more importantly, get medical treatment so they can get back to a task they can do.

**CHAIR**—And the union is cooperating with that?

**Mr Allan**—We actually initiated it.

**CHAIR**—Good. On that note, Mr Allan, that has been quite outstanding. I share Mr McArthur's view that yours was a very good submission. You have been very frank with your responses and, on behalf of the committee, I thank you for your evidence here today. We will be sending you a copy of the proof of *Hansard*. We may need to come back to you with some written questions to which I trust you will respond.

**Mr Allan**—Thank you very much.

**Proceedings suspended from 10.29 a.m. to 10.47 p.m.**

**PENNICUIK, Ms Susan, Occupational Health and Safety Coordinator/Industrial Officer, Australian Council of Trade Unions**

**ACTING CHAIR (Mr Gibbons)**—Welcome. Before proceeding, we have to advise all witnesses that, although the committee does not require evidence to be given under oath, committee hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. Would you like to give us a five-minute appraisal of your submission and then we can go to questions?

**Ms Pennicuik**—Thank you. I would like to make three points which follow on from our submission to the inquiry. The three points are around the issues that: fatigue is an issue not just in the transport industry; the effects of working hours are not just fatigue, and governments must act. The ACTU view is that leaving it up to the workplace parties to deal with on their own is not going to be sufficient.

We made our submission to the inquiry in the first instance to confirm that fatigue is a serious—if not the major—health and safety issue facing the transport industry at the moment, and that is across all modes of transport. Secondly, we wanted to draw the attention of the committee to the growing significance of fatigue across the work force. As stated in our submission, fatigue is an increasing health and safety hazard in any industry which involves shift work, extended and or irregular working hours, and we are seeing this type of work appearing more and more across all industries.

In the past it was confined mainly to essential services and industries such as transport, but we are now seeing more and more shift work, and particularly night work, across industries in the country. This has been accompanied by an increase in the spread of ordinary hours, so that, in effect, all hours are treated the same and pay is for the work that is done rather than at the time it is done. As mentioned in our submission, all hours are not the same. Night work and extended hours which carry into the night are extremely hazardous as far as health and safety are concerned and we think that this must be recognised, more fully than it is, and addressed. There is certainly a push in the community to treat all hours the same, that if you work eight hours at any time of the night or day you will be paid the same and the work will be viewed as the same, but it is not.

In our submission we mentioned our national survey on stress at work which was carried out in 1997 and released last year and in which over 38 per cent of the 10,000 respondents reported long hours in their workplace and one in four identified insufficient rest breaks. However, as many experts have attested, working hours cannot be seen in isolation from workloads and work tasks when looking at the causes of fatigue which results from a combination of hours of work and the workload and work tasks. It is little wonder, then, that fatigue is now a serious and growing health and safety problem in Australian workplaces. In our view, thousands of Australians are now working hours which are dangerous to their health and safety.

This brings me to the second point, which is that it is not just fatigue that is the result of dangerous hours. In July-August this year the ACTU released the employment security and working hours survey, which confirmed and extended upon the results of the earlier ACTU

survey on stress at work. This survey of almost 7,000 people found that 55 per cent work over 40 hours per week, 26 per cent work over 45 hours, and over 12 per cent work over 50 hours per week. Half had worked some overtime in the week of the survey, many of them unpaid. You may realise that in the last few weeks there have been surveys released by the Finance Sector Union and the Australian Nursing Federation on the significant amount of unpaid overtime worked in those sectors. Also, half the respondents reported their health had suffered because of their working time arrangements, with 76 per cent nominating stress as the most common symptom; 72 per cent, continual tiredness; 55 per cent, headaches; and 51 per cent, depression. Disturbingly, one in four of those respondents had reported that, in their view, working time arrangements in their work places had contributed to accidents or near misses in the workplace.

Many studies have indicated links between irregular work schedules and other health problems, including gastro-intestinal disorders, heart disease, colds and other respiratory illnesses, and stress. This is why we believe this committee should be equally concerned about these additional and recognised health effects of irregular working hours which cause pain and suffering to workers and are a significant burden on the community. Also, employees' lives beyond work can be greatly influenced by bad working time arrangements. Rest days may increasingly be experienced as periods of merely recovery and recuperation from work. While social and domestic activities may be possible, lack of motivation and a general sense of tiredness will be experienced. Social and domestic activities are not luxuries; they are essential features of life in our society. The off-duty period must not become a breather in an endurance test of wall-to-wall work.

We frequently hear, from people who call us at the ACTU, of people working stretches of 10 or 15 hours or more, often days in a row, at the employer's insistence. In our view this amounts to employer negligence. These people want to know what governments are doing to stop employers from demanding that they work these dangerous hours. That is my third point, that governments have a clear responsibility to ensure that citizens are not killed, maimed or made sick by their work, including where this arises from working dangerous hours. We believe that governments need to recognise and acknowledge that working hours that are an occupational health and safety hazard must be subject to national standards and laws. This includes industrial relations laws which protect conditions which may impact on health and safety in the workplace.

We believe that health and safety provisions should be reinstated as allowable matters in awards, and not subject to bargaining. Workers should not have to bargain for health and safety conditions. We believe that governments must, at the very least, legislate for maximum weekly working hours, minimum daily rest—that is, breaks between shifts—and minimum rest breaks at work, and also specific provisions for night work. Governments must also do more than set standards and enact legislation. Effective mechanisms such as audits to ensure that these standards are implemented in the workplace are required if we are to avoid an epidemic of illness and injury resulting from dangerous working hours.

It is not good enough, either, to have working hours provisions which result in workers who are on the verge of fatigue all the time. Standards must allow for sufficient rest, recreation and participation in family, social and cultural life, which is the hallmark of a civilised society. As I stated before, this cannot be left to workers and employers to work out

between themselves, or to employers alone where they may refuse to consult with their workers. Without action at the government level, workers will find it increasingly difficult to insist on consultation about rosters and to claim their right to work reasonable and safe hours. I will leave it there.

**ACTING CHAIR**—Thank you. Have the ACTU's affiliates got plans to put fatigue management plans into workplace agreements or awards?

**Ms Pennicuik**—The ACTU has been working for several years on the issue of shift work and extended working hours. Over the last two to three years we have developed an interim guide to shift work and working hours which was released in May and is the subject of consultation amongst all affiliates. We ran a national conference on shift work and extended hours on 3 September at which we had speakers such as Professor Dawson and Meredith Wallace from La Trobe University who is an expert in shift work. The guidelines and what to do about these issues were discussed in detail. The conference resolution is in draft at the moment. The guidelines on shift work, which are designed to cover all industries including transport, should be endorsed by the ACTU council in December.

**CHAIR**—Does that regime recognise, as the evidence before us seems to indicate, that the span of hours or number of hours worked in a day, especially in the transport industry, may not necessarily be a measure of fatigue? It is the time of day they are worked, how many days a person works consecutively, whether the hours are worked at night.

**Ms Pennicuik**—Yes. The ACTU guidelines do two things. Firstly, they are designed for use by workers in employee health and safety, or representatives or delegates or organisers in the workplace, to ensure when working time arrangements are negotiated at the workplace level that health and safety principles are taken into account. We believe that, in the movement for a wider spread of working hours and the explosion in shift work and extended working hours that has gone on in this country, health and safety have been taken into account on very few occasions. We would like that to be addressed. We are moving to address that. The guidelines do explain in a summarised form what the issues are and what the hazards are to health and safety. They do cover weekly hours, daily hours, rest breaks and night work and they also talk about the workload and that certain work arrangements are not suitable for certain work tasks.

**CHAIR**—You can tackle this problem of fatigue from two angles. You can tackle it from an aspect of regulation and prescription, and you may not get as effective a result as if you tackled it from the point of view of forcing companies to have auditable fatigue management programs and making it a condition of their quality assurance that if they do not have these programs in place they just do not get that quality assurance, therefore they are not capable of tendering for a lot of contracts, and so on.

In other words, you make them look at the problem creatively rather than put in a whole lot of rules and regulations. We have found in evidence that there are art forms around, for example, the logbook. We have discovered that the number of art forms to prostitute the logbook are countless. I would be interested to know whether you think you can achieve this totally through making fatigue a dimension of occupational health and safety or whether it

might be better to make it a dimension of quality assurance in trucking companies in particular and, for that matter, other modes of transport.

**Ms Pennicuik**—If I understand the question, I think you are asking me whether employers should be doing risk assessments rather than having prescriptive legislation. Is that the question?

**CHAIR**—No, it is not. A fatigue management program is a fairly comprehensive thing. It involves the drivers, the hours they work, the time of day during which they work those hours, the number of days they might work in a week, a fortnight or a month, what sort of food they are eating, whether they are getting adequate rest at the terminuses of their travel.

**Ms Pennicuik**—Yes, I understand that.

**CHAIR**—It is holistic. In fact, in some of the companies that have embraced this in a fairly creative way, even the spouses of the drivers are involved in the program, so it is a fair dinkum project. My question to you is: is it better to make that a dimension of the quality assurance rules rather than just say, 'We're going to enforce this through occupational health and safety,' perhaps triggering a lot of prosecutions and litigation but not achieving a lot across the industry as a culture?

**Ms Pennicuik**—My view is that it is not an either/or situation. I think what you do need is basic community standards for working hours across all industries. From that, you can work towards adapting to certain industries according to the requirements of those industries, but bearing in mind that you do not flout community standards which are agreed and legislated. I think that we do need to move towards maximum working hours over a week, maximum daily hours and minimum rest breaks between shifts. There has been a move to reduce rest breaks between shifts and you will see people coming back to work after only six hours away from work in some cases. I find that unacceptable, especially if it happens on consecutive days. This happens a lot, across other industries as well as in transport.

**Mr GIBBONS**—Has the ACTU researched fatigue management practices trialled and adopted in other countries and, if so, have you found anything interesting that may well be applicable in this country?

**Ms Pennicuik**—The ACTU has not just concentrated on fatigue, as I mentioned before, so our guidelines are looking at the other health and safety effects of long working hours, shiftwork and the whole issue together. So we are not just looking at fatigue. What we have been looking at is other international studies about shiftwork, extended hours and how to address those issues at all levels—the government, employer and workplace level.

**Mr GIBBONS**—So you believe that Australia should have a national standard on working hours similar to the European Commission's directive on working time?

**Ms Pennicuik**—Yes, I do. I think that is what we should be doing.

**Mr LINDSAY**—In your recommendations you talk about the OH&S authorities; who are they?

**Ms Pennicuik**—The state health and safety authorities, such as WorkCover Victoria.

**Mr LINDSAY**—Is there only one in Victoria?

**Ms Pennicuik**—Yes, there is one in each state and there is the National Health and Safety Commission in Sydney.

**Mr LINDSAY**—Would you agree that workers themselves are part of the problem?

**Ms Pennicuik**—That is often said. I believe—and certainly our surveys on stress at work and the other survey I just mentioned and one we are currently conducting in the health and safety unit of the ACTU health and safety representatives show—that workers more often than not are forced into this by job insecurity. People are afraid to lose their jobs. Even if the threat is not immediate that they may lose their job, there is a culture that there is a lot of unemployed people, that there is someone there to take your job, so you work these hours. There is also the problem in many industries—for example, in the textile, clothing and footwear, and hospitality industries—of people being forced to work long hours because the pay is so low, and if they do not work overtime they do not make enough money.

**Mr LINDSAY**—Or workers may indeed be wanting to make more money for their own purposes—and we are talking transport now—so they will drive another shift or whatever. What is the ACTU's view on that? How do you address the fact that the workers are part of the problem?

**Ms Pennicuik**—The way to address that is by not seeing health and safety as an issue on its own but that it is connected to other industrial relations issues and to issues such as a living wage for workers across the country. If people were able to get a living wage by working reasonable hours, they would probably be less inclined to work dangerous hours.

**Mr LINDSAY**—Your recommendation 10 suggests that there should be a moratorium on further deregulation of working hours across all industries. Do you recognise that in fact further deregulation could be of benefit in certain circumstances where an employee talks to the employer and says, 'It would be of benefit to both of us if we worked these hours instead of those hours.' The employee might want to do that because of family responsibilities, for example. Have you seen those sorts of situations which in fact might militate against this recommendation that you have put to us today?

**Ms Pennicuik**—With the deregulation of working hours, I was aiming at things such as more removal of penalty rates, et cetera, for night work and weekend work, which is work that usually impinges on people for social reasons or, in the case of night work, for health and safety reasons. The penalty rates associated with night work in the past have, I believe, been there to make night work less attractive for employers—to have fewer people working night work. The removal of them takes that away. That is basically what I meant.

On your other point, certainly there can be benefits for employees in some flexibility in working hours, but there is also the other side of the coin which we see and hear about and have been told about all the time of the flexibility going all the way for the employer and not for the employee. There was the Steggles case, which you may be familiar with,

where the employer required a woman to start work at a very early hour. She was unable to do that because of her children, so she suffered discrimination over that. That is not an isolated incident in our view.

**Mr McARTHUR**—Professor Dinges, who was regarded as a world expert in this whole fatigue argument, has said to this committee that the modern world is moving to a 24-hour day. That is inevitable and irreversible, and we need to cope with the consequences of that. Reading your submission, I wonder what your recommendation is to the committee as to how we do cope with that. You note the problems but I wonder what you are recommending might be an answer from your organisation's point of view as to how we should handle this whole problem of the 24-hour day and the consequent fatigue problems—rather than a prescriptive point of view, because we have had evidence on logbooks and prescriptive hours of work as producing a number of problems in the reality of the workplace.

**Ms Pennicuik**—There may be a move to a 24-hour world in some areas but there may not be in other areas. For example, we talk about a 24-hour day and a seven-day week, but if you go to Europe you will find that most things are not open on Sundays, as they are here, and a lot of things are closed at night, which are not here.

**Mr McARTHUR**—The aeroplanes still run on Sundays.

**Ms Pennicuik**—That's right, but that has always been the case. As I mentioned before, there are essential industries where there has always been a 24-hour—

**Mr McARTHUR**—Trains and ships do too.

**Ms Pennicuik**—That's right, and we have to deal with that. We are seeing that the spread of hours that people are expected to work, the number of hours that they can be expected to work in a day, and the number in a week, and the time between finishing one work period and starting the next, have been taking a toll on people's health and safety.

**Mr McARTHUR**—What are you recommending?

**Ms Pennicuik**—I am recommending that we look at some form of prescription of maximum weekly working hours, and also for breaks between shifts and breaks at work. Human beings are not robots. We are meant to have daily rest. We are meant to have breaks during the day to enable us to drink and have food, otherwise we end up being dehydrated, we end up with blood sugar problems, and we cannot function properly because we have not eaten and drunk properly. This is very common across industries now, people working through their rest breaks.

**Mr McARTHUR**—In terms of the trucking industry, we have had a number of witnesses on this very problem of how you break up the working schedule. What is your recommendation there?

**Ms Pennicuik**—I would not like to make recommendations differently from what has been done by the Transport Workers' Union, or the unions representing other—

**Mr McARTHUR**—They are a bit careful about being too prescriptive. They are trying to get a real answer to the problem. Logbooks are not working, and specific hours are not working because of the nature of the trucking industry.

**Ms Pennicuik**—The European directive makes allowances for averaging things out to cover those sorts of industries and circumstances. I am saying that we need to have some sort of a benchmark below which we do not fall, otherwise we will just keep falling lower and lower. We do need some prescription, we do need some benchmarks, we do need some common standards. We need a recognition amongst the community and legislators and employees and employers that things such as regular daily rest and a rest break at work and things such as maximum hours are important to safeguard and prevent health and safety problems. The ACTU's view is that we need to prevent these problems.

**CHAIR**—Have you read extensively on the transport union in respect of this inquiry?

**Ms Pennicuik**—I have read their submission and I have had some discussions with them.

**CHAIR**—Who are they?

**Ms Pennicuik**—The transport unions.

**CHAIR**—But have you read more widely on this inquiry?

**Ms Pennicuik**—More widely than their submissions?

**CHAIR**—Yes.

**Ms Pennicuik**—I have read the National Occupational Health and Safety Commission's submission, and one other.

**CHAIR**—What is your view on paying people a per kilometre rate rather than an hourly rate?

**Ms Pennicuik**—I would not be able to give a view on that. I would defer to the Transport Workers Union on that as I am not an expert on the transport industry.

**CHAIR**—What about the principle of it? Does the ACTU have a view on the principle, not necessarily as it applies directly to the submission of the Transport Workers Union, but more broadly speaking?

**Ms Pennicuik**—Do we have a view on paying by kilometre? No, I do not have a view.

**Mr GIBBONS**—Would the ACTU have any problem with that if the Transport Workers Union were able to negotiate?

**Ms Pennicuik**—No, because we are aware that the Transport Workers Union has been doing a lot of work with the Road Transport Commission, et cetera, on this issue. So, we would presume that their view on that would be the correct view.

**Mr GIBBONS**—The problem we have found, especially for smaller truck operators, is that they will pull into the loading dock after travelling for several hours from Sydney to Brisbane or whatever, and after having to sit for one or two hours in a hot truck with the engine running. They will shuttle up to the loading dock, unload, load again, and then do the same thing when they get back. The TWU had a view that there ought to be a kilometre rate, plus an hourly rate for that down time.

**Ms Pennicuik**—Which is really a sort of work time as they are still working.

**Mr LINDSAY**—I have a question that you are not expecting. Have you seen any evidence that females are more subject to fatigue in transport than males?

**Ms Pennicuik**—Not specifically on that issue, but there is some work around which indicates that females may suffer specific additional health effects from working shiftwork and irregular hours.

**Mr LINDSAY**—Is that in relation to families?

**Ms Pennicuik**—I am talking about health effects such as changes to the menstrual cycle.

**Mr LINDSAY**—I am sorry. I understand.

**Ms Pennicuik**—But there are the additional burdens which I mentioned.

**Mr LINDSAY**—I thought you were referring to the consequent stress caused by working unusual hours.

**Ms Pennicuik**—I am not sure whether that is worse than for men as a medical problem, but it is for women with child care responsibilities. Certainly our survey on stress at work showed that.

**Mr LINDSAY**—Okay. Have you seen any suggestion that national competition policy is impacting on the issues that you have brought to the committee today?

**Ms Pennicuik**—I am not an expert on national competition policy either, but some of my colleagues at the ACTU would have that view and have expressed that view. I would not be able to comment on it.

**Mr LINDSAY**—Can you comment on the impact of allowable matters in the new Workplace Relations Act on fatigue issues?

**Ms Pennicuik**—In my view, the climate where spread of hours is increased, which I have already covered, has been facilitated by that act and will be made worse, I think, if the second act comes through. I do not think that the health and safety implications of the changes that have happened in the workplace, particularly with working hours, have been considered.

**CHAIR**—Are you familiar with Professor Dawson's work?

**Ms Pennicuik**—Yes.

**CHAIR**—What do you think of his idea of programming by computer the work pattern of an employee and then setting spikes—levels above 80 or 90 on his scale—as being unacceptable but levels below that being acceptable. What are your views on that?

**Ms Pennicuik**—I think Professor Dawson's work is very interesting. He was a speaker at our conference on shiftwork and extended working hours. I think his link between the effect of fatigue and how it mimics the effect of blood alcohol concentration is very interesting. We looked at his work when formulating the ACTU shiftwork guidelines. I mentioned it earlier when I was talking about people being on the verge of fatigue. My worry about using that sort of program is that you can work people to just before they are at a dangerous level and I do not think that is good enough. I think we need to take a more holistic and preventative approach so that we do not have people walking around who are almost the walking wounded.

**Mr LINDSAY**—The Australian Centre for Industrial Relations Research and Training yesterday discussed with us the enigma—and this is part of your argument today—about working time standards on the one hand and, on the other hand in the transport industry, the need for flexibility in fatigue management programs. How do you think we should reconcile that enigma?

**Ms Pennicuik**—I think it needs a lot of work at the community and government level and I am not saying it is an easy issue. It is a difficult issue, but it is one we can see as having effects. We know that, for example, in the US they suggest that 5000 people a year are killed due to fatigue on the roads. I am not sure what the figure is here. But we have a problem with that. Our survey, which I mentioned before, released in August, found that one in four people thought that working time was causing accidents and near-misses in the workplace. This was in fact highest in manufacturing, where there is a high level of injury and illness, which you would have seen from our national commission submission. We are having accidents caused by fatigue in other industries as well. Coming back to your question, we do need to look at having benchmark working hour standards and how that can be applied across industries as well. That needs a lot of work and I am not suggesting that I have every answer here. I am saying that we need to look at that.

**CHAIR**—Thank you very much for your evidence today. You speak for the peak body of trade unions in Australia so your views are very important to the committee. I thank you for the trouble you have gone to. If we require any further data I trust we can write to you on that matter.

**Ms Pennicuik**—Yes.

**CHAIR**—You will receive a copy of the proof from *Hansard* of today's evidence. Once again, thank you very much.

**Ms Pennicuik**—Thank you.

[11.22 a.m.]

**ANCA, Mr Joey, Manager, Human Factors, Ansett Australia**

**JENSEN, Mr Trevor, Executive General Manager, Operations and Inflight Services, Ansett Australia**

**VINCENT, Mr John, Executive General Manager, Engineering, Ansett Australia**

**CHAIR**—I would like to welcome the representatives of Ansett Australia to the table. Thank you for giving us your time today. You are an extraordinarily important player in our inquiry. I just have to caution you that although witnesses are not required to give evidence under oath, the committee hearings are proceedings of the parliament and warrant the same respect as would attach to the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. Would you now like to give us a five-minute overview?

**Mr Jensen**—Thank you, Chairman. First of all, thank you very much on behalf of Ansett for the opportunity and the invitation to appear before you today. Ansett is a major provider of international and domestic air transport services and is a major employer. Our business supports the economic livelihood of a great number of affiliated suppliers, agents and allied producers and forms a major input to the national economy.

The consequences of fatigue in air transport are potentially catastrophic and, as such, the Australian commercial aviation industry has taken a leading role in safety. Transporting more than 13 million customers annually, the safety of our operations is our primary operational focus and business goal. That goal is known within Ansett as safety first.

Passenger and staff safety provides our licence to operate in a global aviation industry. We are well aware that this licence can be quickly removed or revoked if we compromise safety in any way. The safety culture that we have built at Ansett emphasises this joint responsibility for safety and our reporting, monitoring and feedback systems do not apportion blame or fault, but aim to build learning directly into improving operations.

We drive our chain of responsibility for safety at Ansett directly to board level. This includes a board safety committee comprising myself; our executive chairman, Rod Eddington; the chairman of Ansett International, Mr Ken Cowley, and our company secretary and the general manager for safety. Formed in 1997, this group takes direct responsibility and monitors Ansett's commitment to safe systems and practices at the highest levels. Ansett extends this approach further to all regional subsidiaries and co-chair partners within Australia. We also have a regional safety board, of which I am a member, which in turn reports to the Ansett board safety committee.

We undertake regular audits of the safety systems of the regional carriers under the explicit recognition that, whilst practices may differ, safety standards shall not. As a company, we acknowledge the contribution made to Ansett safety goals by the federal aviation regulatory bodies, including the Civil Aviation Authority, CASA, and the Bureau of Air Safety Investigation, BASI. Their role in fostering one of the world's safest aviation

environments and their research, investigation and standard setting role are central to Ansett's own safety initiatives.

The increased focus on fatigue management commenced in Ansett with the establishment of our human factors safety program and the appointment of our manager for human factors, Joey Anca, who is here with me today. The establishment of our fatigue management unit, including our work with fatigue specialists such as Drew Dawson and David Dinges, is a major initiative. As will no doubt be mentioned by others at this inquiry, there are still gaps in the understanding and research of fatigue. Ansett will commit its support to assist in developing this research base and improving safety across the wider transport industry. Ansett believes the existing regulations and proposals currently before CASA provide constructive framework for the management of fatigue.

We acknowledge concerns surrounding prescriptive hours and believe a combination of measures will achieve the best results. This includes a major role for CASA in the research and setting of standards across the aviation industry. Ansett believes the regime at present is not unduly restrictive and recognises the individual issues and knowledge resident within each corporation, while providing an overall safety framework.

Our approach to fatigue monitoring, prevention and management is primarily focused on the recognition of the interdependencies between fatigue and other contributing factors in the performance of safety management. Research presented by our fatigue management unit has so far identified key areas of focus for Ansett's fatigue management policies and has resulted in a number of initiatives, such as the *Human Performance Manual* and a number of key articles which are presented. These target the independent causes of fatigue, as well as mitigate the effects.

Factors such as weather, equipment performance, traffic congestion, workload, stress and the impact of travel on regular sleep patterns all combine to influence the susceptibility of an individual to fatigue. Ansett is also aware of the challenges that extended hours and shift work present to the individuals own lifestyle and their impacts upon the family. We are committed to working cooperatively with unions, staff and other representative bodies to ensure any impacts are minimised. Our centralised PC-based crew rostering system ensures that no crew member is able to be rostered over prescribed maximum hours. The data collected from the system, which records scheduled as well as actual hours worked, forms a valuable input to the ongoing management of fatigue.

Ansett continues to promote and educate staff as to the dangers of fatigue, how to recognise personal fatigue and fatigue in others, and what systems and practices will minimise the occurrence and instances of fatigue. Fatigue management models employed across the aviation industry represent the unique environment of air travel, maintenance and schedule. It is a very complex industry.

Ansett recognises that most standard models need adjustment for the uneven workloads and rest opportunities that are present in many flight and maintenance roles. Within those frameworks, however, analysis company-wide has found risk factors on the whole across our work force to be low.

The movement to 12-hour shifts in some areas of maintenance presents unique challenges to traditional fatigue management models. Since the introduction of the 12-hour shift we have continued to observe an overall improvement in our safety indicators. We have adopted a number of international recommendations from bodies such as the International Civil Aviation Authority, ICAO, and the International Air Transport Association, IATA, as well as other bodies such as NASA. Looking forward, Ansett supports the ongoing educative, consultative and regulatory role of bodies such as CASA and BASI and hopes that the transport industry, as a whole, can increasingly monitor and share developments in this important area. Thank you for the opportunity to appear here today.

**CHAIR**—Thank you. That is very good. Let me cut right to the core issue. We received evidence that the maintenance industry in the airlines is not working to a system of exemptions that are genuine exemptions and the exceptions to the rule, but is now being regulated by exemptions. Should the system of exemptions be tightened up? If so, how? If not, why not? Some of the people who have given evidence have said that, although there is a theoretical roster and it is quite acceptable on face value, it is not being worked the way it should be. People recognise that, if you are in the middle of a maintenance task of an aircraft and you have two hours or three hours to go, you cannot just change engineers as some of these tasks require a continuity of thought and process. You cannot just swing over to another engineer midstream. That aside, there is a feeling in the industry that it is working to the exemptions rather than using the exemptions in exceptional cases. What is your comment on that?

**Mr Jensen**—Firstly, regulation within the Australian industry at the moment is set by CASA and applies only within the air crew ranks to the pilots.

**CHAIR**—I was speaking in that instance more particularly about maintenance engineers.

**Mr Jensen**—Yes. I think CASA is also undertaking work we are working closely with and is also undertaking support to try to establish these standards. It is a very complex industry. The Federal Aviation Administration, FAA, in America and bodies in New Zealand are also working towards this. There has been no solution yet. For example, in America they nominate 24 hours off in a month. In New Zealand it is a 16-hour shift followed by an eight-hour break. There is a hell of a lot of work to be done here yet. We are working with CASA.

**CHAIR**—What is Ansett's general pattern with maintenance engineers? Do you work four on and four off?

**Mr Jensen**—The general pattern is 12. John can perhaps speak better to that point.

**Mr Vincent**—Perhaps I can expand somewhat on the nature of activities we undertake because there are a whole range of activities from workshop activities, where people work eight-hour or 9½-hour shifts, and housing support as well as the maintenance engineers who work on the line. It is people on the line area who work typically during the day at the airport terminals and during the night when they are working night shift either at the terminals or back at the hangers.

**CHAIR**—The pressure is at night, isn't it? Is it about 9.30 at night and about 5.30 in the morning?

**Mr Vincent**—It depends. It can vary day and night, depending what is happening to the operations.

**CHAIR**—Isn't that when most of your domestic and regional airlines are being serviced?

**Mr Vincent**—That is correct. However, during the day there is a pressure of activity as well. For instance, we have a morning peak which I am sure members of the committee would have experienced themselves at any terminal in Australia. We have an afternoon peak. During that period of time there are work pressures across the organisation to handle the arrival and dispatch of aircraft and any rectification of defects that those aircraft have when they are in service. That can vary from day to day.

At night we undertake scheduled maintenance that is generally planned. However, to a great extent, that can have unknowns associated with it as well, depending on what the findings are when the engineers perform a preliminary inspection. We also do defect rectification at night. So in some cases it is permissible to carry over a defect during the day, like a defect in the cabin or the galley or something like that, to the night. When that work commences at night, you are never quite sure exactly how easy or difficult it is going to be to fix that problem.

**CHAIR**—What is your rostering system for your overnight maintenance staff?

**Mr Vincent**—It varies from port to port. Generally speaking, it is a 12-hour rotating day/night shift, usually two days followed by two nights followed by four or five days off. That is the pattern that most ports work to. Individual ports come to their own agreements, facilitated by their unions.

**Mr McARTHUR**—How did you reach that set of arrangements?

**Mr Vincent**—My recollection is that that was done in the early nineties. It was initiated by a proposal from the engineers' union, supported by the membership, expressing a desire to work 12-hour shifts, as distinct from the eight- or 9½-hour shifts they had been working previously.

**Mr McARTHUR**—We are interested in that two days and two nights and then—what was the next bit?

**Mr Vincent**—They work two nights, two days, so they have almost 24 hours off between the second night and the first day.

**Mr McARTHUR**—Is that working in practice?

**Mr Vincent**—Yes.

**CHAIR**—Is that an eight-12, eight-12 sort of thing?

**Mr Vincent**—No, they are 12-hour shifts.

**CHAIR**—All of them are 12?

**Mr Vincent**—Yes. The two day shifts are 12 hours, followed by two 12-hour night shifts.

**CHAIR**—So they do 48 hours in the week?

**Mr Vincent**—They do 48 hours in a five-day period, thereabouts, then they have four or five days off. So they do 48 hours in something like a 10-day period.

**CHAIR**—We also had evidence that people are frequently called back from the rest period. Is that true?

**Mr Vincent**—People certainly are occasionally called back, and occasionally people are asked to work overtime at the end of their 12-hour shift, so an extra hour or so, usually to handle a particular activity.

**CHAIR**—Are you familiar with this BASI report that is to be released shortly?

**Mr Vincent**—No, I am not.

**CHAIR**—We had evidence—albeit hearsay evidence—that two-thirds of those surveyed said they worked more than 14 hours. Is that a fair figure?

**Mr Vincent**—I do not understand the population from which that has been drawn, so I would need to take a look at that report.

**CHAIR**—I am talking specifically about maintenance engineering. Two-thirds of those surveyed said that it was not unknown for them to work 14 hours or more.

**Mr Vincent**—Again, I would like to take a look at the report, before answering specifically, to determine whether that was an Ansett population or someone else's population, but I think I could make—

**CHAIR**—It would obviously be across the board, but I wondered what Ansett's experience was of that.

**Mr Vincent**—I can certainly give you a general indication.

**CHAIR**—The other thing we were told was that 20 per cent of those surveyed said they suffered from memory lapse induced by pressure and fatigue. That concerned the committee because, probably after the pilots themselves, the maintenance guys are the most important people in the aviation chain. If a fifth of the population of engineers are saying they are suffering from memory lapses, isn't that a matter of some concern to the industry?

**Mr Vincent**—Yes, it certainly is. Again, I would need to take a look at the report to understand the origins of it, but certainly I can give you an indication of the experience in Ansett with the 12-hour shift. We typically—

**CHAIR**—Have you eliminated what is known in the industry as the blame culture?

**Mr Vincent**—Yes.

**CHAIR**—You tackle these sorts of things creatively?

**Mr Vincent**—Absolutely. Whenever there is an incident—and I am not talking about a fatigue incident here, I am talking about a broad range of incidents—it is investigated typically by two organisations within the company. Those are our Quality Assurance department and the independent Safety Department, so there is an independent review. In addition, of course, it may be investigated by CASA and BASI, depending on the seriousness of the incident. The purpose of that investigation is to identify the cause of the problem, so there are issues around accountability of management, of supervisory staff, of support staff, of the individual involved. We need to understand the cause of that incident and then we actively put in place mechanisms to address that cause.

We do that process in conjunction with the employee's union as well to ensure that there is no question of that employee being treated unfairly in the process. It is not a blame culture, it is a culture of identifying the cause. Usually there is a sequence of contributing factors that lead up to an incident. We then put in place programs to address each of those clauses. Much more often than not it is not the individual, it is the process in which the individual has been operating.

**Mr Jensen**—Mr Anca would actually conduct those investigations as part of the Safety Department.

**CHAIR**—I suppose we are probably more disturbed about this maintenance engineering sector than anything in the whole inquiry, especially on the anecdotal things that have been brought to our attention. The one that disturbed me most was the suggestion that when this inquiry was announced there was a flurry of activity in both airlines in this maintenance area. That has been denied by your colleagues at Qantas, but I would like to hear your comment on it.

**Mr Jensen**—It is denied by us too, Chairman. We have had ongoing interest in fatigue. I think Ansett has demonstrated by bringing Joey Anca on board back in 1997, by his involvement with the fatigue programs and the formation of the Fatigue Monitoring Unit that we have actually been watching this very carefully and working with it.

**Mr GIBBONS**—When was the unit formed?

**Mr Jensen**—The unit was formed earlier this year. The work was commenced in 1997. Formally, the unit got a structure around it earlier this year and it has now met on two occasions.

**Mr GIBBONS**—How many personnel are involved in that?

**Mr Jensen**—At the moment it is led by our chief medical officer. We have Joey Anca on board and there are three other members of the committee.

**Mr Anca**—On a rotating basis.

**Mr GIBBONS**—Why is CAO 48 inadequate in managing fatigue in aircrew? Will the new CASA proposals on duty time limitations adequately address the issue of flight crew fatigue? If not, why not?

**Mr Jensen**—First of all, the CASA 48 regulations have to be viewed as just being the boundary; they should set the outer limits from which we have to work, then each company will have very different requirements. We are—for want of better words—a north-south operation, as opposed to our colleagues at Qantas, which is an east-west operation, so issues associated with the rostering there will be very different. We believe that within the current CAO and the work that is being done by CASA—we are working very carefully with them and Joey is a member of that team—we will get a pretty good set of regulations. The proposed regulations they are working on now have taken into consideration the work from all the other bodies around the world and are very much with current thinking. They are going in a sound direction.

**Mr GIBBONS**—You also mentioned that in the maintenance area you have an independent safety review within Ansett. Is that made up of people from another division of Ansett who have no expertise in maintenance? Can you explain how that works?

**Mr Jensen**—The Safety Department reports to me. The head of that department, the general manager of safety, has a letter on file from me which says, ‘Any time you are dissatisfied or believe that I have got in your way you must go directly to the executive chairman.’ Also, as I pointed out, the general manager of safety is a member of this company’s safety board. So there is a good deal of independence there.

Within Ansett we have a very strong Safety Department. It has four areas: an operational safety area, an occupational safety area, the human factors area and an emergency planning administration cell. Within that group it operates independently, so we have a manager of engineering safety, for example, in that group, our human factors person, who actually reports to our general manager of safety. He works with John in preparing safety reports and carrying out the investigations. He works very closely with John’s own team and his safety committees and also with his quality assurance people. So there is a high level of independence with direct report to the board.

**Mr GIBBONS**—Is that group part of the fatigue management unit?

**Mr Jensen**—The fatigue management unit is actually within the medical department effectively, because it is chaired by our Chief Medical Officer, Dr Lewis.

**Mr GIBBONS**—So that safety committee does not have an input into the fatigue management unit?

**Mr Jensen**—Yes, it does because Joey is a member of the safety department who is on that committee. One of the points in Ansett, as we move into building our new culture through great airline business, is the development of the culture and cross-functionality. You cannot stay within silos today and prove successful.

**Mr Anca**—I think the comment about the flurry of activity is very interesting. My expertise comes, first and foremost, from coming into Ansett a couple of years ago. We have been doing a lot of work in industry about fatigue management, so fatigue management is an issue in itself. What Ansett is doing is replicating what industry has been doing for the past several years. A lot of the work has been done by David Dinges, the NASA Z team, and even the French are in the picture with the Universite Rene Descartes who have been doing that work before.

I believe there has been a flurry of activity for many years in fatigue management. What is emerging right now is that in Australia we have people who are worried about doing some action on it. This is what we are doing in Ansett. One, I would like to respond on the structure of the fatigue management unit. We do have a rotating participation with line management, specifically engineers. They are part of the committee who are investigating issues about rostering or what basically worries us in engineering. We have started this as far back in 1993. When I came in 1997, I was very pleased to see that there had been some movement as far back as 1993. Dr Dai Lewis has been at the forefront of it and also in relation with work with Dr Dawson.

In Ansett we do have a human performance limitations manual which dates back to 1993. Not too many airlines have that. In my previous life in my previous airline we never had that. Much of the work we have been doing in industry before was basically based on ICAO and IATA initiatives. Ansett is working closely with a small group of people organised by CASA to just specifically look at fatigue management. Members would include Airservices Australia for the traffic controllers, Ansett and Qantas, CASA and BASI. The scenario is that we are grappling with the fatigue issue quite honestly from an internal strategy as compared to a very external way of perceiving things about fatigue management.

**Mr Jensen**—Mr Anca worked with the original NASA group 25 years ago and so has a fairly extensive background into fatigue. He does not look that old.

**Mr Anca**—It is not that long ago.

**Mr LINDSAY**—It would seem that what I would call task based fatigue is well understood and well managed but the question of physiological fatigue is not well understood. Do you agree that, basically to this point in time, no one body has been successful in trying to come to grips with that particular type of fatigue and how to deal with it?

**Mr Anca**—I would agree on two scenarios. One is on the issue of task fatigue. It is an organisational issue. In other words, the solutions are also organisational. What do we mean by this? We mean three things. One is nine to five. You have to set the baseline of what we are doing in the fatigue management and union. That is a picture of how the people are in

terms of certain parameters of task fatigue levels. On the physiological issue, I would call it bipolar mode. In other words, you address it on a personal level.

We are doing a couple of things in Ansett. One is the educational part of it which is actually cross-divisional. The more important thing is what Dr Lewis has been doing for the past three or four years with the confidential referral system. If any employee or staff member in Ansett feels that there are certain limits that they have approached, they have a facility for confidentially discussing this with an expert. I am also part of that with Dr Lewis.

The last one is actually building that culture of where our line managers themselves are adept at addressing the real issues in the workplace. They are the ones who are definitely going to be at the forefront of fatigue issues, not the safety department, not Trevor Jensen but the line managers.

**Mr LINDSAY**—I see that Qantas have been talking with the Australian International Pilots Association to get some kind of cooperative effort going. Is your airline doing the same?

**Mr Jensen**—First of all, I was a former technical director of that union at one stage so I am fairly familiar with the work. We have had AIPA visit us at Ansett about 18 months ago, and we went through that work with them. The work that is currently being undertaken by AIPA is very Qantas specific to their east-west flying. We do have a liaison with our colleagues in Qantas, and I still have fairly good contacts with that association. We are very familiar with the work but, again, we need the set of CASA rules which give us the fence. And again, because their work has a very strong east-west orientation, I think it would probably not be relevant within the Ansett group.

**Mr LINDSAY**—In relation to the CASA rules, Qantas's evidence was that, effectively, 'they query the approach being taken by CASA in attempting to drive this to a conclusion'. They do not seem to be as confident as you seemed to be this morning that CASA will come up with a set of parameters that are acceptable. Do you have concerns about the CASA process?

**Mr Jensen**—The CASA process is taking in a lot of consultation, and that is what is very important in this. It is setting the parameters. They are not going to come down and say, 'You must do this, that and the other.' What they are going to come out with is a set of rules. They are looking very closely at what is happening on this in the EC areas and in the States. But what we have to understand is that the set of guidelines that come down will set the ability for us to establish our own flight time limitation programs within those guidelines. To answer your question very simply, yes, I am confident that CASA will do this, although there is a lot of work still to be undertaken. But what will be very important is that we have things such as our fatigue monitoring unit and that the management and the employees have a very consultative approach in the application of the rules when they come down.

**Mr LINDSAY**—I have some close contacts with CASA, and as I move about the community the feedback that I get is that CASA is extraordinarily bureaucratic and slow to

respond. In fact, it is said that they are more bureaucratic than the ABC, and that is really saying something. Do you hear that same kind of comment?

**Mr Jensen**—CASA has undergone a tremendous amount of change. In my opinion it has an excellent director in Mick Toller. He has an incredible change program to bring into CASA. CASA has had a lot of difficulties for a long time. It has been chopped and changed and moved here and there. I think that Mick Toller now is getting on with things. He has put together a pretty good senior management team, and we have very close contact with them. I am very confident, but any change program is going to be hard work and is going to take time. It is not just a case of it all being here today. Mick has a lot of work to do. He has our full support. I am very confident that he will achieve the change, but, boy, he has a lot of work ahead of him in some of the areas.

**Mr LINDSAY**—Do you support his push to get the organisation working?

**Mr Jensen**—Yes. I think he has to get a lot of his structure right so that he can start the work program again.

**Mr LINDSAY**—Getting back to your organisation, we have talked about your fatigue management programs and so on. Have you done any work or do you have any mechanisms where you have a way of actually measuring fatigue, in going to an employee you are concerned about and finding a way to say that that person is on the verge of fatigue or is fatigued? Can you give us any evidence of how that might be done?

**Mr Jensen**—I will ask Joey to comment a bit more, but just as a lead-in—

**CHAIR**—In that response, do you use the Dawson model?

**Mr Jensen**—That is exactly what I was going to address in the lead-in. We are using the Drew Dawson model at the moment to look at our rosters for operational areas. Operational, to us, is not just the pilots and the engineers, it is the flight attendants. They are key safety personnel on board the aircraft. It goes across the loaders. A loading error can do as much damage to you as an engineering error or a human factor error by a pilot, so we have to look across the whole spectrum. We have used the Drew Dawson model; it is a good model but we have a lot of work to do. We have worked with Dr Dinges. Some of the things that we have found, for example—just a simple anomaly—is that a pilot who does an 11-hour shift can be less fatigued than somebody who has been in the office for six hours. That means we have more work to do. I think it is a model, and like all models we have to work on it. Joey, you might like to comment further.

**Mr Anca**—Just to add on—you have covered a whole lot of that territory. We are using the Drew Dawson model, but I would like to comment on what Mr Lindsay has also mentioned. I personally overheard the question asked of the ACTU a while ago about computer generated programs. Firstly, we are using the Drew Dawson model and, in my own personal opinion, a model is always a model in completion—in other words, it is always in progress. It is a very good model but we are not going to be satisfied with the model alone. In other words, we are carrying it forward. Phase 1 is a baseline assessment of how we are based on a model—the Drew Dawson model.

Secondly, from this standpoint, we are going to be calling phase 2 a counter measures in education program. What we are also going to do is to validate the model, given the out-of-waking-hours issues—in other words, what do people eat; what do people do during their rest time?

**CHAIR**—You are going to feed that into the program, are you?

**Mr Anca**—Yes. Thirdly, is the devolvement strategies. In other words, the more we equip plane management with tools, the more effective as an organisation we will be, because we cannot centrally control fatigue. I think the more we devolve it to the front-line units, where you have a manager who is actually very much adept at managing, for instance, fatigue issues and being open enough to listen to people, the more we have achieved a goal.

**Mr LINDSAY**—You have talked about models, and super sophisticated models, recognising all of the many factors that contribute to fatigue. Have you tried to find some kind of a physical test to, on the day, at that moment, check whether a staff member is fatigued—some kind of physical response?

**Mr Anca**—Historically, there are basically tools or tests that have been done, but they have been done on the high hazard professions. We are talking about pilots, flight attendants and flight engineers—people flying. It consists of different psychomotor tests, plus actimetry readings, meaning vital signs readings. The issue that we have, for instance, in Ansett is that we intend to move that way only to the extent that it will allow us to actually capture measures between high hazard professions and the low hazard professions. What do we mean by this? I think we need to grapple with the issue straight away with respect to engineers, ramp people, CSOs, and so on, by actually jumping the gun and doing the solutions straightaway. In other words, we would like to use this opportunity to actually do the solutions first and then implement the tests for the low hazard group later on.

**Mr Jensen**—I think what is very important too, Mr Lindsay, is that as individuals we all have a role in this, and that is part of the educative program. So, if you are fatigued, you have to be able to recognise those signs. Our education program must give that information and assist the people in understanding that. If I feel fatigued, I have to put my hand up. We have the ‘no blame’ system within Ansett and we must be able to put our hand up, but we understand, through education, when we should be putting our hand up.

**CHAIR**—On that point, assuming that you are going to develop this program further, what are your current regimes, especially in maintenance, but in other areas—the ramp area, the cabin crew and the pilots—for fitness for duty if there are fitness for duty problems? Do you expect the employee to report to you? Are you contemplating further down the track doing some of the tests that might be around? What is your fitness for duty regime?

**Mr Jensen**—Again, it is a dual responsibility. If somebody appeared at work in a state which we were concerned about, it would be the supervisor’s role to intervene. This is where the education program is very important. We all have to understand that, if I am going to work in X number of hours time and I am going to be on duty flying an aircraft, say, for 11 hours, I must present myself in a reasonable condition to undertake that. So we cannot just step away and say that it is a team effort. It is very much that we all understand that.

**CHAIR**—If a pilot comes up to you and says, ‘I am not ill, but I feel dreadful.’

**Mr Jensen**—We have had that happen, and what happens is they are actually removed from service without penalty. If a pilot steps forward and says, ‘I am fatigued,’ under the Civil Aviation Regulations that provision is there at the moment. If a pilot says that, he is removed from duty. It is the same with the flight attendants. If they come forward now, they are removed—no questions.

**CHAIR**—What about maintenance?

**Mr Vincent**—It is exactly the same in maintenance. In other words, if a person comes forward to their supervisor and says they are feeling ill or fatigued or they feel their judgment is impaired for whatever reason, then action will be taken. It depends on the circumstances. It might be that they go home or it might be that they go and see the medical officer, depending on what has been reported.

**CHAIR**—Are they put on different duties?

**Mr Vincent**—It depends on the nature of the problem. Certainly we do have people on light duties where they are suffering from any sort of impairment that prevents them from undertaking their normal activities, whether it be physical impairment in terms of physical damage, so they cannot perform a physical task, or something related to a longer term illness. We have extensive rehabilitation programs to try to put people back into the work force.

We had a very recent example of an individual who suffered a stroke and was off work for many months going through rehabilitation. The recommendation from the medical profession was that that person needed to be back in the workplace conducting as near as normal tasks, which is a 12-hour shift activity. The recommendation from the medical staff was not that we went into a 12-hour environment immediately but that we built up to that. So we facilitated that person over a period of about six months to progressively work their way back into a 12-hour environment.

It was their decision at every step of the way. They finally decided that yes, they were ready to go back into the 12-hour night shift environment. That was done under guidance. Unfortunately for the individual, after a couple of weeks of that, he decided that he was not comfortable with the pressure, and he chose to take medical retirement. We worked through a six-month program with that person, working through Dr Lewis, working through his personal medical advisers and the rehabilitation people to try to get him back. So that is an example of what we do in that environment.

**Mr LINDSAY**—Knowing the background in your own industry, do you think there is any need for the federal government to sponsor some sort of research program into fatigue in transport, or is the industry handling it okay?

**Mr Jensen**—I think this committee is an excellent step forward because it is going to bring the whole issue together. We have a lot of expertise, particularly in the aviation area. There will be expertise in other parts of the transport industry that we can learn from. It is

also going to give us the opportunity, I think, to really understand the international environment. There is no simple solution, and it is not one solution that fits all. So I think that going forward with research on this is very important. What we need to think very carefully in any research, of course, is that it is properly focused towards getting the solutions—just going after something simple which may or may not work, like a model which we will just adopt. I think Joey has conducted most of his life in research through the universities, and then working through other airlines, so he would be more familiar with research.

**Mr Anca**—To add to that, if there is going to be any committee undertaking in that regard, I think Ansett supports that 100 per cent. There are two things that probably would be good to look at. One is that that particular activity should be one multi-modal—in other words it cuts across industry. The other one is that it is also bipolar. In other words, it is a melting pot of both the academe, us in industry and the practitioners. I think those two qualities have to be there.

**Mr LINDSAY**—Finally, do you think that Australia has the opportunity to lead the world in these kinds of issues? Are we doing well on the world stage at the moment, and do we have the opportunity then to lead the world?

**Mr Jensen**—It is a very complex and a very difficult question in some ways to answer because the world has been grappling with it. If you look at the work of the Americans, they have not been able to really come to a solution. There is a tremendous amount of work being undertaken by our colleagues in Air New Zealand—they have programs in place—and there is the work of the EC. There is no doubt the opportunity does exist there if you get a very good and a very sensible research program which takes in the elements that Joey has just mentioned but there is no solution out there that we can just put our hand on today and take. Clearly there is work to be undertaken and Australia, I think, given our regulations—and some of our areas are quite solid—could work on it.

**Mr McARTHUR**—I have got four issues. The first one is, Mr Vincent, could you just give me some more information on this night shift? Two nights on still worries me a bit when you look at some of the other industries who run a two-week schedule of night shift, day shift and make the change. It seems to me to be a dramatic change in the psychological rhythm of the workers. Could you just comment on that unusual set of arrangements?

**Mr Vincent**—Yes, certainly, Mr McArthur. I think probably one of the important things to take account of is the nature of activity that people undertake so they are not undertaking a steady state activity, a repetitive activity or a production line activity. The people we are talking about are undertaking a huge variety of activities. It might begin with receiving an aircraft, identifying it has got a problem, spending half an hour sourcing some documentation, thinking and discussing with colleagues about how to solve the problem, going to the aircraft, gaining access—that is spending half an hour removing a panel—inspecting the area, going away, determining what needs to be done to fix it, ordering a part, waiting an hour, unfortunately, sometimes for a part to turn up, sometimes longer if it has got to come from another city which happens to us occasionally, then going in, undertaking the work to rectify the problem and then perhaps ultimately testing the system by going up to the cockpit, powering up the aircraft and doing whatever—all in conjunction with a range

of other individuals such other engineers and under the guidance of supervisory staff in terms of the overall activity.

There can be significant periods also of down time where there is nothing to do, quite frankly, and people are able to rest in addition to their normal scheduled meal breaks. That can vary, as I said earlier, from night to night so one night can be quite busy and then you can have a couple of nights that are very quiet.

**CHAIR**—What kind of rest breaks to they get? How would they rest?

**Mr Vincent**—We have ready rooms available. We have got rooms equipped with lounge type chairs, microwave ovens, refrigerators—small kitchenettes basically. People have the opportunity to prepare hot meals, to rest and watch television, to read magazines—I would like to think to read up on company publications.

**Mr Jensen**—They are not that silly, surely. That would put them to sleep.

**Mr Vincent**—It is quite different from a person who is working a 12-hour shift on a lathe or driving a truck for 12 hours.

**CHAIR**—I did not mean to cut in on that. I was just interested to know what you meant.

**Mr McARTHUR**—You are basically saying there is a different work pattern to the normal production shift as we see it in the factory process?

**Mr Vincent**—Yes, and one of the things that we have discussed in concert with the discussion from Joey earlier was that we need to find a mechanism in adapting the Drew Dawson model to take all that into account as distinct from the alternative environment.

**Mr McARTHUR**—Can I just get a description of this performance manual and what it means to a company?

**Mr Anca**—We do have a copy of it.

**Mr McARTHUR**—I was just interested in how it works. You are saying you have got a manual of performance or a benchmarking type thing. How does it work in this whole fatigue area?

**Mr Anca**—It gives the baseline issues about managing fatigue at the workplace from both the divisional and personal level. It is actually a field book for people to read.

**Mr McARTHUR**—Do they read it?

**Mr Anca**—Yes. It is issued to all employees.

**Mr McARTHUR**—Do they read it?

**Mr Jensen**—If I could answer that one, Mr McArthur, we have a checking and training system in place. We are a regulated industry so the opportunity does exist for us to actually test whether the knowledge is there and so it is. When you undergo checking as a pilot or even through the standards checking of flight attendants or when they are in the training school and they have to come through there annually, we have the ability to actually assess whether there is some understanding of knowledge and, yes, they understand.

**Mr McARTHUR**—They are reading this manual that picks up the fatigue argument so they are familiar with it?

**Mr Jensen**—It is available.

**CHAIR**—Give us a practical example. Do you allow napping on international flights?

**Mr Jensen**—Yes, we allow napping.

**CHAIR**—Okay, how would the manual address that?

**Mr Jensen**—It is in our policy manual and I am quite happy to make available a copy of the actual words. We have the manual here with us today.

**CHAIR**—How will it address this problem that Mr McArthur is talking about—a pilot wanting to nap on an international flight?

**Mr Jensen**—The guidelines are set out and he would follow through the guidelines. They say that you cannot sleep for more than 20 minutes, otherwise you go into a deeper sleep. He has the guidelines there and if it is a two-pilot operation a flight attendant must be advised so that they can actually come back into the cockpit and make sure that we both have not decided to nap. We must be very practical about this and that is what it is all designed about. If one person needs to have a nap it is better to take that. The research would indicate that it is better to take that 20-minute nap because the recovery is so much better. That is all contained within the manual.

**Mr McARTHUR**—It is the relativity of the fatigue argument that we are looking at and your whole safety regime. We are aware that pilots are not allowed to take alcohol and they are very strictly scheduled. We are aware of that. What are you saying to us is the relativity of this safety debate and the discussion about fatigue and how you see it in your company?

**Mr Jensen**—At the outset I spoke about the fact that an accident to us is catastrophic. Therefore, fatigue is one of the many factors we have to take into consideration such as the overall performance of the pilot and the capabilities of the whole system, the licensing of our engineers, the licensing of our loading staff, et cetera. We have to be able to manage the whole complex environment in which they work. Fatigue, quite clearly, is one of those areas that is a potential hazard, just the same as misloading the aircraft or forgetting to do something in an engineering area. It has to be taken into consideration in the overall safety management. The education of our staff is a continual working exercise. There is no solution to this one. It is not going to end in a years time—it is ongoing.

**Mr McARTHUR**—In company seminars, is this matter of fatigue high on the list of discussion points?

**Mr Jensen**—Yes. I heard Dr Lewis, for example, at the last presentation in the ACTU meeting. Not only do we stay within Ansett but Dr Lewis was one of the presenters at the ACTU conference. We have to exchange information. All the knowledge does not reside just with us. We have to get around. We exchange the information within the company at safety seminars and safety briefings. Bear in mind that safety underpins our operation. If we are not safe no-one will fly with us. We have to be able to have the public's confidence and that is based on safety.

**Mr McARTHUR**—We have had a lot of evidence on fatigue in long-distance trucking operations, train operations and marine operations. What would be the unique features of airline operations in relation to fatigue management?

**Mr Jensen**—Firstly, one of the things that really differentiates, in some ways, aviation is that we cannot pull over and stop if we are tired—we have to keep going. I think that might sound a bit glib, but it is a fact. Therefore, we really have to understand and have a set of good rules around this. I think that we can look across the multi-modal. There are lots of techniques that we use—the napping, for example. I am not an expert at all in road transport. My dad was a train driver but that does not make me an expert in trains. I know dad came home tired plenty of times.

Again, if they can nap and have those sorts of applications applied that could be where this exchange of information through the research program can come in. That is why we must get together and exchange the information that we have and the information they have. I know nothing about the shipping industry. They might have some terrific techniques available. There could be some terrific ideas in the rail system. I certainly have not seen too much of it.

**Mr McARTHUR**—What you are saying in the aircraft industry is that you are making the fundamental observation that once you start the 14-hour journey you have to get there with two pilots.

**Mr Jensen**—Yes. You have two maxims: take off is optional but landing is mandatory. In between there you have 14 hours. If you depart out of Sydney and head to Los Angeles or, in our case, head out of Sydney and head to Hong Kong, you are going to be airborne for 10 hours on the way and you cannot pull over for a quick sleep.

**Mr McARTHUR**—That is a unique feature. There must be a couple of others that are unique to the airline industry, since you have been thinking about this fatigue thing for longer than other industries.

**Mr Jensen**—I think it is the regulatory framework that we have that has given us good guidance to get started, the fact that we do have civil aviation regulations and they are international, so we have got them as a benchmark which we can come back to. What does make us unique in some ways is the tremendous amount of research that has gone on—for example, Dr Dinges is now thinking about how we go to Mars. The thinking in our industry

tends to be out there, we are moving faster. As we will move one day into supersonic type travel, it will become quicker to move around. That will mean time changes faster, across the meridian. So we have a lot of research that is putting us right out in front. That is one of the areas for aviation where we can contribute back. That is the differentiator, the amount of research that we do conduct that is necessary.

**Mr McARTHUR**—What about this dominant feature of the psychological impact of a crash to your company so that the whole company, as we would understand it, is dominated by one bad incident wrecking the profitability of the company—how much does that impinge on your whole psychology?

**Mr Jensen**—Safety and security underpin everything we do. If we are not safe, we cannot operate. Therefore, the first of our five core goals in the company is safety first. The commercial pressure is on us to be safe. That is important. People talk about commercial pressure to be unsafe. The commercial pressure is actually to be safe because the minute we lose credibility with the travelling public, or lose our safety record or it is called into question, customers will move away, staff will lose confidence with their management, and there is only one place to go. That is the importance of these independent safety departments, of the number of safety committees we have through the company and the fact that we have the Board Safety Committee.

I cannot think of any other company in the world that has two players on a board safety committee like Eddington and Cowley, the two most senior people of Ansett International and Ansett Australia. The commitment flows right from the board and permeates down. The focus on safety first is a company focus.

**CHAIR**—Picking up on that comment of Mr McArthur's and your response, do I detect in what you said that it might be wise for this committee to recommend in its findings that there needs to be more interaction at the seminar level about fatigue? Is there enough exchange of information across the key players, (a), in aviation and, (b), more widely?

**Mr Jensen**—There is a good deal in aviation; it is going on. For example, there was Dr Lewis's attendance at the recent ACTU conference. But again, coming back to research, we have to start to pull it together more. If we just look within Australia, we have not had a central forum to pull together all the research at this time. That is the missing element. Mr Lindsay asked about whether we have an opportunity. I think we have an excellent opportunity. That is why we are pleased to be able to come before the committee today, because we see that the outcome of this committee is not looking at individual issues. We have to get back up into the systemic world and ask: what are the key issues that are going to make transport in Australia and, indeed, in the world safe?

**CHAIR**—I think you alluded at the beginning of your presentation to the fact that you keep a fairly strict quality control on your subsidiaries and affiliates. Is that right?

**Mr Jensen**—Yes, we do.

**CHAIR**—Do you audit them or do you have some system—

**Mr Jensen**—We audit those. We have a flight operations inspectorate contained within the flight operations division. We have ISO accreditation—

**CHAIR**—And they must meet Ansett standards?

**Mr Jensen**—We go out and we audit them on a regular standard. The auditing team will take people from other parts—for example, John’s quality assurance manager might be a member of a team. If you owned a little regional airline, for example, and wanted to be associated with us, the first step would be that you would have to satisfy us with an operational audit of the company—there would be commercial assessments as well, but there is the operational audit. Recently, two operators in one part of Australia sought entry. One was accepted, one was not. We undertake a very strict monitoring of these regional airlines. If they are not prepared to be audited by us or be part of our program, they will not be accepted within the Ansett system.

**CHAIR**—And does that go right through to fatigue, or is it just the mechanical side?

**Mr Jensen**—No, it looks at all their operational practices and procedures.

**CHAIR**—Including fatigue management?

**Mr Jensen**—It does because of the fact that we look at their pilot operating practices and procedures.

**Mr McARTHUR**—Is it suggested that in some of these regional airlines the fatigue levels are much higher than in commercial airlines because of smaller numbers of pilots and different airline routes?

**Mr Jensen**—Once again, the regulations that apply to XYZ regional airline are exactly the same as apply to us.

**Mr McARTHUR**—Forget the regulations. I have heard about all those. I want to know what you are saying in reality.

**Mr Jensen**—What we are checking is that they are not breaking the rules. If they break the rules they get a nonconformance, and we have no evidence of breaking of the rules within our regional airlines in respect of flight time limitations. That is a fact that I can place before you on the table.

**Mr McARTHUR**—It is just that the argument has been suggested that regional airlines would be more suspect in terms of flying longer hours because of the distances in regional Australia—all that sort of thing.

**Mr Jensen**—Most regional airlines have a flight time of about an hour 15, an hour 20. Western Australia would be an exception where maybe you operate from Mount Newman down to, say, Perth—that is longer. But generally on the east coast flight times tend to be about one hour 15—and the reason they are about one hour 15 is that they are so slow. If

you put a jet on you could probably cover the distance faster, but a jet is just not economical.

**Mr McARTHUR**—Except it has been suggested that they get three or four different flights in the one eight-hour period.

**Mr Jensen**—If I can give you my personal experience, I have in my logbook a day when I did 24 landings, when I was flying in Western Australia, within an eight-hour period. That is the exception. The most I have done outside that is about five. But to do three to five landings in a day, depending on the type of flying that you are doing, is not unreasonable within the flight time limitations. In fact, you could argue that the more landings you are doing the better your proficiency and therefore you are improving your safety. One of the issues of long-range flying is the fact—and I know I am diverging here, Mr Chairman—

**CHAIR**—That is all right.

**Mr Jensen**—A problem there is that where you fly really long sectors there is not the opportunity to share the landings, so actual manipulative skill can decrease. So a person who is doing a lot of flying with lots of landings probably has a higher manipulative skill than a long-range pilot. Nothing to do with fatigue.

**CHAIR**—On a point we did not touch on, I would like to hear your view on this because we have asked this of all witnesses. What is your company's general view: should the matter of fatigue management be controlled somewhat prescriptively through occupational health and safety regulations, or should companies be required to have an auditable fatigue management program and it be a requirement of quality assurance in that company that a fatigue management program be part of it—in other words, if you do not meet the guidelines, you do not get government contracts and a lot of companies will not use your services? Which way would you attack it, or is it a bit of each?

**Mr Jensen**—It is clearly a bit of each. If you just go straight under OH&S, for example, every state has its own legislation and what we do not need is that a worker in Brisbane has this set of rules but in Perth it is different. What we need is nationalised legislation, if we are going to go down that path. That is an important point if we take it up through OH&S. We clearly have the CASA process in place to support the aviation side. I think the OH&S should clearly be an element of it. I believe the fatigue monitoring program, the Fatigue Monitoring Unit that we have put in place in Ansett and will continue to develop, is a key part of our strategy. If there is one thing that we can put on the table to the committee as something that we are doing that is proactive I would put that on the table.

So I think the answer to your question is that there has to be consultation right across the whole of the bodies. There has to be consultation with management and with the workers—we must clearly have them as part of the process as we go forward. But we have to take something out of each to build the program; I do not think the answer lies just within one of the areas.

**CHAIR**—It probably does not apply so much within the aviation industry, because you have a fairly regulated industry anyhow, but our concern was that if we marry it totally to

occupational health and safety we end up with a lot of prosecution and litigation, but we may not change the culture of fatigue.

**Mr Jensen**—I think that is the key to this: we have got to get in place a safety culture. A tremendous amount of the work that we are undertaking in Ansett through the Safety Department is getting a culture that is safety first, and management and the workers all understand their responsibilities as part of the program. You cannot just say, ‘As manager, I have got to understand the total.’ I cannot go up to so-and-so on the ramp and say, ‘It is your problem.’ It is not. It is a corporate problem, it is a systemic problem, which we must understand and work on as a team.

**CHAIR**—We have gone over time but I thought it was very valuable in your case and in Qantas’s because we have a very high standard of safety in this country and fatigue is a very important issue to be attacked in that regime. If we have been a little bit tougher on you than we have on other witnesses it is for that very reason. So, thank you, Mr Jensen, Mr Vincent and Mr Anca for coming before us today and for being so frank with your answers. I trust that if we require any more material, you will reply in writing to us.

**Mr Jensen**—Most certainly.

**CHAIR**—Thank you very much.

**Proceedings suspended from 12.25 p.m. to 1.18 p.m.**

**BROMLEY, Mr David Roy, President, Civil Air Operations Officers Association**

**McGUANE, Mr Peter Gerard, Executive Secretary, Civil Air Operations Officers Association**

**CHAIR**—I declare the meeting resumed and welcome to the table Mr Bromley and Mr McGuane from the Civil Air Operations Officers Association. Before commencing, I have to caution you that although witnesses are not required to give evidence under oath, these committee hearings are legal proceedings of the parliament and warrant the same respect as meetings of the House itself. Any false or misleading evidence is a serious matter and can be regarded as a contempt of the parliament. Mr Bromley, are you going to lead today?

**Mr Bromley**—Yes.

**CHAIR**—Would you like to give us a five minute overview, please?

**Mr Bromley**—Certainly. First of all I would like to thank you for the opportunity to appear before the committee. It is an issue we consider to be very important, and we are very glad to see this inquiry going on.

I think I should give you a small explanation of the Civil Air Operations Officers Association. Civil Air represents the professional and industrial interests of Australian civil air traffic controllers, the only two groups being military and civil. Civilian air traffic controllers work in all major centres in Australia as well as in minor towers in places such as Albury and Tamworth. We have two major radar centres in Melbourne and Brisbane which look after all the high-level, en route air traffic in Australia. So we have a diverse range of geographical positions and a diverse range of types of jobs in air traffic control.

We have one thing in common—that is, shiftwork—and of course that leads us to the reason for this inquiry. The shiftwork duty hours and their relationship to fatigue is something which has interested us for a long time. We have been attempting to negotiate with our employer, Airservices Australia, and its predecessors for about 20 years to try to get some sort of limitation of duty hours recognised by the employer.

Currently our hours are regulated by a document called ‘Principles of rostering’. That document is part of the industrial agreement with Airservices. One of our major issues is that we do not believe that such an important document which regulates our hours should be in the industrial arena. This, of course, makes up for negotiation every now and again when negotiations on industrial matters are carried on.

In essence, we believe the standards of work, hours of work, runs of shifts and breaks between shifts are not an industrial issue; they are a professional and safety issue which we believe should be set aside as a separate issue into professional duty-of-hours limitations. This is common practice overseas and in many other types of employment within aviation and other transport industries.

We contended that fatigue is both an occupational health and safety issue and a safety issue. There have been many studies—no doubt you have seen some already—and we have

attached some of them to our submission. There have been many studies that indicate that shiftworkers have a strong likelihood of suffering chronic fatigue from shiftwork.

No doubt you have seen the study that Professor Drew Dawson from the University of Adelaide has carried out which correlates impairment from medium levels of blood alcohol content with similar impairment from fatigue, tiredness and working at night time, in particular. I believe that Professor Dawson's report has gained wide acceptance throughout the industry and academia.

The main issues that we would like to see addressed by this inquiry are the matters of fatigue and the impact upon fatigue that shiftwork creates. We believe it is also particularly important in that it is Airservices and the government's stated intention that air traffic control will be opened up next year to private operators. That means that we may have operators from local airport owners to multinational organisations providing air traffic control. We could have multiple providers in Australia. For those providers not to have some sort of regulatory framework to control the hours of shiftwork, length of shift breaks, et cetera, could mean that Australia could end up in an unsafe environment.

CASA are currently working on establishing a legislative framework for duty hours and it is their intention to have that framework in place alongside other regulatory frameworks to allow for the privatisation or commercialisation of air traffic control. We agree with the work that CASA is doing because it will eventually provide the sort of framework that we have been pursuing for 20 years with Airservices. However, we do have a concern that the work that CASA may come up with will be undermined by Airservices and the government so that they can maintain what they see as their ability to have flexible working relationships with their staff. In reality that means trying to subvert the rostering principles as often as they can in our view.

I believe that the Airservices submission to this committee gives an indication of the level of thought and care that they have towards the health of their staff, the levels of fatigue and the effect that it may have upon safety. All they did was submit the principles of rostering, saying, 'This is a great thing we are doing.' That is all, thank you.

**CHAIR**—Thanks very much for that. You talk about the air traffic controllers—are they the ones in the towers?

**Mr Bromley**—Yes.

**CHAIR**—What about the two control centres in Brisbane and Melbourne—are they also under your organisation?

**Mr Bromley**—Yes, they are. The two major centres in Melbourne and Brisbane are radar centres. The Brisbane centre looks after the northern half of Australia and the Melbourne—

**CHAIR**—The committee has inspected the facility. Do you cover those employees as well?

**Mr Bromley**—We do.

**CHAIR**—Who are data system officers? These are the people who work on the desk, ticketing and so on, are they?

**Mr McGuane**—No, airway staff systems officers are also members of our organisation.

**CHAIR**—What do they do precisely?

**Mr McGuane**—They provide assistance to air traffic controllers. It is an unlicensed function in that there is not a requirement under the regulations for that to be a function that has a licence requirement. It is administrative, and it provides flight progress strip information to air traffic controllers to assist them in their functions.

**CHAIR**—BASI conducted a consultation in respect of the Sydney terminal control unit, and that resulted in a new roster. Has that been effective? If not, why not? Did they do similar work in Melbourne and Brisbane?

**Mr McGuane**—Our understanding is that the Bureau of Air Safety looked at a number of factors. They conducted a systemic analysis of factors affecting the Sydney terminal area and, as far as I am aware, a large number of those recommendations have not been implemented. I believe the question of why they have not been implemented is perhaps an issue for Airservices Australia. I am unsure whether similar considerations have been directed to the Melbourne terminal area, but my guess is that they have not conducted such an investigation in Melbourne.

**CHAIR**—Do I take it from your earlier comments and from what you have just said then that you think that Airservices are being fairly cavalier about this issue?

**Mr McGuane**—Yes, we do. We base that approach on our experience in a formal sense since 1980 when we began corresponding with the organisation under its various guises. We have provided documentary material in the form of international comparisons and we have sought a similar legislative framework to that which applies overseas, and consistently the answer has been, ‘Everything is covered under the principles of rostering and we do not see a problem.’

**CHAIR**—So I take it from that then that Airservices have a fatigue management program?

**Mr McGuane**—They have occupational health and safety.

**CHAIR**—No, I am talking about a specific fatigue management program, an interactive program involving staff, outside experts, even the families of employees—

**Mr McGuane**—No.

**CHAIR**—and an auditable program at that. They do not have that?

**Mr McGuane**—Not as I am aware.

**CHAIR**—You, as employees, are not aware of it if there is one?

**Mr Bromley**—I work in Melbourne and I am not aware of any action ever by Airservices to do anything.

**CHAIR**—You are not aware of any fatigue management program?

**Mr Bromley**—I believe there has been a booklet distributed in Brisbane which talks about shiftwork and the possible effect of shiftwork but I have never seen it.

**Mr McGuane**—That document to which Mr Bromley refers forms part of the Airservices submission, and as far as we are aware, it is simply a newsletter for staff which makes suggestions about commonly held occupational health and safety.

**CHAIR**—You have never been to a seminar on fatigue control or anything like that?

**Mr Bromley**—Never.

**Mr McARTHUR**—You have been putting the proposition about fatigue—is it more of an industrial argument?

**Mr Bromley**—No, we do not see it as an industrial argument at all. Part of our submission is that it should not be industrial.

**Mr McARTHUR**—You are saying that management have never talked to you about it?

**Mr Bromley**—Yes.

**Mr McARTHUR**—You have just put in a proposition that there is a problem with fatigue and that is where it is.

**Mr Bromley**—That is about where it is.

**Mr McARTHUR**—Your answer, as I read it here, is that we need a more precise roster of hours.

**Mr Bromley**—We need not just rostering principles. We believe that we also need to take the rostering principles out of the industrial area and into a professional area and to have a legislated framework which is enforceable.

**Mr McARTHUR**—Why have a legislated framework, when all the other witnesses are telling us that we need to be a bit more flexible in the long-distance trucking area and train driving?

**Mr McGuane**—I think our experience in that area has been that unless it is an enforceable arrangement in the sense that flight and duty time limitations apply to flight

crew, there is a tendency for both management and the employees to try and manipulate the principles of rostering. We contend that the management would use it to their own advantage. Similarly, many of our members, through reasons of wanting to maximise their income and everything else, often manipulate the principles of rostering to their own advantage, and we see that as a potential disadvantage to the industry and that was the thrust of our submission.

**CHAIR**—Just before we go into more detail, could you just give us a bit of a feel for your typical roster, say, in a tower or in one of these control centres. Is it a three-roster day?

**Mr Bromley**—First of all some positions are 24 hour and some are for, say, 14 or 16 hour. Let us say a 24-hour roster—and I can tell you the roster I work. I actually start at midnight tonight, work through to seven in the morning and I am back tomorrow night at 5 p.m. Then I work through to midnight—

**CHAIR**—Does that happen regularly?

**Mr Bromley**—This is every six days.

**CHAIR**—Is that a changeover of one style of shift to another? Does that happen every day of the six days or just once every six days?

**Mr Bromley**—Yes, every day of the six days—night shift followed by five to midnight, followed by 11 a.m. to 6 p.m, followed by 6 a.m. to 1 a.m., two days off and then I do it again. That is one way of doing a 24-hour roster. It is called backward rotating. You can do it the other way and start off with lates and move forward. That is my particular roster and I can tell you, quite frankly, that I hate it, but that is what it is.

**CHAIR**—Have you ever had the standard three-shift roster of morning, afternoon and night?

**Mr Bromley**—Yes, I have worked that and quite often people work that who are not on 24-hour shifts. In other words, they do not work a roster which has 24-hour coverage. You might work two afternoons, two middays and, say, two mornings.

**CHAIR**—But you work around the clock, don't you?

**Mr Bromley**—We work around the clock but not all positions are 24-hour positions. During the day, obviously, when it is busy, we have to have a lot more people than at night. Some positions may only have 14- or 16-hour coverage.

**CHAIR**—There is not much air traffic between midnight and—

**Mr Bromley**—No, it dies off dramatically after about 10 o'clock at night and, in some positions, it starts again at about 2 o'clock in the morning. Those are the positions which handle the Asian flights coming in through Indonesia. They get quite busy at, say, 2 o'clock in the morning as the flights approach Sydney. There is a curfew at Sydney and they are not allowed to arrive before 6 o'clock. As those aircraft arrive in Sydney in a big way and all

want to land at 6 o'clock, progressively some areas get very busy at, say, 3 o'clock or 4 o'clock in the morning.

**Mr LINDSAY**—Are you working at the TAAATS centre?

**Mr Bromley**—No, I do not. I work in the old radar centre—the one which is slowly closing down and moving to TAAATS.

**Mr LINDSAY**—Who is your employer?

**Mr Bromley**—Airservices Australia. I should explain that I am a working air traffic controller.

**Mr LINDSAY**—Why are you saying in your evidence that it could be CASA?

**Mr McGuane**—There is a difference between the service provider, being Airservices Australia, and the regulator, being the Civil Aviation Safety Authority.

**Mr LINDSAY**—You say you have been attempting to negotiate with the employer and you name CASA, but they are not your employer, are they?

**Mr McGuane**—That is correct. In the past we have been negotiating with Airservices Australia in an industrial sense, but the reference to CASA was intended to pick up the fact that they have recently commissioned a task for an individual employed as a consultant to address limitation of duty hours specifically as part of an overall project involving human factors.

**Mr LINDSAY**—I asked Ansett about this: in my experience with CASA, people tell me that they are excessively bureaucratic. Is that your experience?

**Mr McGuane**—We have had limited regulatory negotiations or involvement with CASA. I do not think I could offer a comment on that.

**Mr LINDSAY**—Taking up Mr McArthur's point, in your opening comment, David, you said that your hours of work should not be in the industrial arena, yet the ACTU this morning gave evidence that they felt that it should be. How do we look at that?

**Mr Bromley**—Without knowing the exact context in which the ACTU were discussing that, the reason we say that is because we do not believe that shiftwork and the related area of fatigue and, therefore, the related area of the principles of rostering, should be a matter which is subject to industrial negotiation every time there are negotiations over our new award or workplace agreement. It should not be up for grabs.

**Mr LINDSAY**—But you do say governments should ensure that service providers are regulated.

**Mr Bromley**—That is right.

**Mr LINDSAY**—So that is not inconsistent?

**Mr Bromley**—I think it is consistent. What we are trying to say is that it should be regulated and CASA, being the regulator of the industry, should have the regulatory authority to determine it. What we do not want is for our principles of rostering to be up for industrial negotiation every 18 months, two years or whatever it is. We believe it is too important for the safety of the industry to be a matter of industrial regulation.

**Mr LINDSAY**—I understand that.

**Mr McARTHUR**—Why isn't that happening in other places?

**Mr Bromley**—I cannot say that. The duty hours of pilots are in pretty much the same area as we are. There are limitations at the moment enforced by the regulator. There are discussions or, if you like, disagreements, between the pilots and the airline companies—their employers—over the same issue. They do not want it to be an industrial matter so that the employers see that it is up for grabs.

**Mr LINDSAY**—You also said that flight duty time limitations are legislated for flight crew but not for air traffic controllers.

**Mr Bromley**—That is correct.

**Mr LINDSAY**—It is this concept that you want to see enshrined and basically not be fiddled with at the margins every two years.

**Mr Bromley**—That is right.

**Mr LINDSAY**—You also said that you looked at the status of allowable items in the new Workplace Relations Act 1996 and the process of award simplification. You said the agreed rostering principles are perceived by Civil Air to be under threat in terms of enforceability. Is that in fact real in that agreements are agreements under the Workplace Relations Act and they would be enforceable?

**Mr McGuane**—I suppose to that extent it depends on your view of the Workplace Relations Act. We perceive the industrial relations environment—as a union, which we are—to be a much more difficult task in the current circumstances by virtue of that act. We also see, and our practical experience has been, that the ability of the Industrial Relations Commission to be able to enforce agreements is, in our view, somewhat restricted by the Workplace Relations Act. Our recent experiences before the commission only served to reinforce that view.

**Mr LINDSAY**—That surprises me. I might talk to you about that later on. You talk about the consequences of an accident caused by a fatigued air traffic controller. Are the airlines, who are very, very keen on maintaining absolute best safety standards, pressing your association and your employer and the regulator to try to improve safety standards in the area in which you work? Are you seeing that happening?

**Mr Bromley**—I am not aware of it, no.

**Mr LINDSAY**—It is interesting, isn't it? Your point is correct, of course. So you would be calling for more liaison with the users to work cooperatively together to ensure the highest safety standards in the country.

**Mr Bromley**—That is certainly how we see that the industry should operate. It should not operate in different areas or particles; it should be a holistic approach to the whole issue.

**Mr LINDSAY**—Has your association tried, on an association basis, to work with the airlines?

**Mr McGuane**—There is a structured framework of regional and national meetings involving all sorts of different elements of the industry, and we are a participant in that process. There was, until 12 months or so ago, a process chaired by Airservices Australia where they brought all the relevant parties together, but we were afforded only observer status at those discussions. Now that has been broken down and fragmented, anyway.

**Mr LINDSAY**—You say, under the heading, 'Issues in transport addressing the causes and effects of fatigue,' that the problem is to identify how a supervisor can recognise the signs of fatigue. Two issues come out of that. First of all, do you as an association know of any easy mechanism to recognise fatigue on the job?

**Mr Bromley**—I think we would probably have to say no to that because we are not experts in the field, which is why we actually attached these reports from people who are experts in the field. I do not think we could give an expert reply to that.

**Mr LINDSAY**—Finally, would you, as an association, approve—if there was some kind of reliable test available—of your members being subject to random fatigue tests, like a random breath test?

**Mr Bromley**—I understand random drug testing, yes.

**Mr McGuane**—I think that before we offer an opinion we would need to know the precise nature of the proposal. I appreciate that you have said 'if there were some kind of reliable test available', but that whole issue is the subject of consideration and policy determination by the international body of air traffic controllers. I think that, before we proffer any opinion on it, we would need to know more detail and to perhaps analyse the implications of such a proposal.

**Mr LINDSAY**—You are being very careful with your answer, and perhaps I understand why you are being careful, but equally so you are also being very forthright in relation to wanting to make sure that the people you represent provide the safest possible control of aircraft. Random breath tests are widely accepted in the community—I do not think there is any objection any more—and all sorts of tests in the workplace are accepted now. What would be the mechanism within your association if someone comes to you and says, 'We want to do this'? How do you handle that?

**Mr McGuane**—Our traditional approach is that we would like to have some involvement in the management of it, and I will use an example here. Our enterprise agreement provides for sick leave for air traffic controllers as required, because under regulation they must attain a higher medical standard than the community at large. Without being derogatory to the employer, our experience has been that in the management of sick leave they have not always got it right, and part of our enterprise agreement specifies procedures where there is a joint management process applied to that particular issue. If the sort of scenario you are suggesting were to eventuate, I think our position would be that we would want joint involvement in it to ensure its proper operation and to ensure the safeguards were there.

**Mr McARTHUR**—When we visited your centre in Brisbane—TAAATS—we had the distinct impression, talking to officers and looking at the whole facility, that there was a good working relationship between management and staff. I am surprised that you are indicating concern about management. It seemed to us that there was an awareness of the skills and risks involved, and of the importance of making sure that aircraft controllers were fit, able to do the task and had an awareness of the mental strain involved. I think it is surprising that the problem of fatigue has not been pursued when they had those sorts of attitudes, and that was reflected by a couple of people I spoke to as well.

**Mr Bromley**—In the first instance, I do not think I could completely agree that there was a marvellous relationship between management and staff. Perhaps you were lucky. The second instance, yes—

**Mr McARTHUR**—What is the problem then? It would be pretty important in a very sensitive area like this to have the management, the new technology and the staff working in tandem rather than against one another.

**Mr McGuane**—That is certainly true, and we would certainly agree with that proposition. Our experience has been that the relationship between the management and staff in the Brisbane TAAATS centre has not been particularly good. There are issues where the management have dictated policies to the employees which we believe have an impact upon fatigue levels—for example, the consuming of food in the new building. We believe that there are certain requirements throughout a shift to consume food to maintain energy levels. But the direction went out to people that, because it is a new room, and because the operational equipment is sensitive, the consumption of food in that room is banned. There is a certain dress standard proposed.

There is nothing wrong with those issues per se, but it is the manner in which those directives have been handed down to the individuals who have to work in the operational situation that has led to what we believe to be a severe morale problem through a whole range of factors in Brisbane. It may not all be as it appears. With respect, perhaps you may have been given a guided tour by people who—

**Mr McARTHUR**—We did talk to the operators and tried to come to grips with it, but we may have misrepresented it.

**CHAIR**—If they are putting on a show, they are putting on a very good one. We had the distinct impression of very good management.

**Mr McARTHUR**—Let us continue the dialogue, though. You are saying that there is a bit of conflict. I think that is of interest to this committee.

**Mr Bromley**—There is a very high awareness of matters of shiftwork amongst the staff. It is an issue which has been around for years and years and years. Everybody, I would say, is aware that shiftwork is an occupational health and safety workplace issue. In saying that, could I say that an awareness of it does not necessarily mean that there is anything done to alleviate it or any assistance given to the staff to help overcome the debilitating effects of it.

**Mr McARTHUR**—Are you recommending, as I am hearing you, just that the rostering arrangements be set in stone?

**Mr Bromley**—That is the main issue that we have brought before the committee, that the rostering principles be enshrined legislatively so that they cannot be fiddled with ad hoc or via industrial intervention. On the further issues of management of fatigue, yes, we see that as an enormous issue, but having the framework to be able to manage that fatigue in the first place is to us the first step. Whether Air Services ever puts in place a program to assist staff to self-manage fatigue matters is another matter. We would certainly like to see it. My personal opinion is that we never will.

**Mr McARTHUR**—What you are saying to us goes counter to what we have been hearing in other industries. Most of the witnesses are saying that they want to move away from a prescriptive hour's rostering arrangements and move to a more flexible approach where there is a recognition of fatigue that varies from individual to individual and that the logbook approach does not solve the problem in the trucking industry, for instance.

**Mr Bromley**—In the trucking industry you are looking at a very different industry in that regard. We are very structured. It has to be structured. Let us say that at 6 o'clock in the morning the aircraft start up in high volume, go all day and then slow down late at night. It is very structured in as far as you have a certain number of seats. You have to have bums on those seats at that time. It is not a matter of individual selection as to whether you are going to work at 6 o'clock, 7 o'clock or 8 o'clock. Your roster is your roster; you turn up at that time. You work until the roster says you stop work and then you go home. It is very structured.

**Mr McARTHUR**—Except that some of the other witnesses work in similar industries where they are looking at some ways of making adjustment to these sets of arrangements in terms of the stress level before they come to work, the spread of work over the seven days and all those sorts of issues. They are constantly coming before the committee. They are not being dogmatic about the answer, but they have been very flexible in the way in which they are suggesting some answers might be found.

**Mr Bromley**—There can, if you like, be issues within the structure of a roster and the way in which that roster rolls. There can be some flexibility or dynamism within the roster, but that can still happen within a legislative framework. What we want is a limit on the

number of days that can be worked in a row. We want a limit on the number of hours you have to be at work and we want to ensure that there are breaks provided during the time you are at work.

**CHAIR**—What breaks do you receive at present?

**Mr Bromley**—At the moment, if it is a seven-hour shift, it is 20 minutes in total during the shift. If it is more than that, it is two 20 minute breaks.

**CHAIR**—You do not have a lunch break?

**Mr Bromley**—No, we do not have food breaks or anything. There is an ability for people to take breaks above that. That is what has to be provided. There is an ability in most rosters for people to take breaks over and above that.

**CHAIR**—Are you saying that you work a full eight-hour shift without a meal?

**Mr Bromley**—No, you normally get a break for a meal.

**CHAIR**—For how long?

**Mr Bromley**—In an eight-hour shift, I think it is a 40-minute break.

**CHAIR**—And you get two 20-minute smoko breaks?

**Mr Bromley**—No, that is it.

**CHAIR**—So you cannot go out and have a cup of coffee or a cup of tea.

**Mr Bromley**—If you are busy, you cannot. You get the legislated break, and that is it. There is a flexibility that usually allows people to go out to have a cup of coffee. However, it is not enshrined and it is not required. If you can work for four hours and sit—

**CHAIR**—Is that because management is being bloody-minded, or is it because you are sitting at a control panel where continuity is an essential feature?

**Mr Bromley**—I would not call it management being bloody-minded to the extent that there is recognition that there needs to be flexibility to allow people to have toilet breaks. However, I would say that it is bloody-mindedness in as far as they will not officially recognise this in the rostering principles; that is, that there needs to be regular breaks—toilet breaks, food breaks, coffee breaks or whatever. As Peter mentioned, there needs to be the ability to maintain energy levels by snacking. We are not allowed to snack in the new rooms.

**Mr McARTHUR**—Why are the aircraft controllers different from people in the aircraft industry? We have just had witnesses from Ansett who said their number one priority was safety of their operation. Safety first was their motto.

**Mr McGuane**—It really depends on what classification of employee you are talking about. If Ansett are talking about pilots, then pilots and flight crew have flight and duty time limitations that are legislated. If you are talking about maintenance crew, then we would argue that the same demands do not exist on those people as exist on air traffic controllers because you are working in the real and immediate environment. We would suggest that the only comparable comparison is internationally. If you look internationally, you will find that the limitations are enshrined in other countries. We have provided an example of that with the Guild of Air Traffic Controllers in the UK.

**Mr McARTHUR**—I am just getting around to the point that surely, in your role in the aviation industry, safety is the key issue. Would that be right? Am I reading it correctly?

**Mr McGuane**—Absolutely.

**Mr McARTHUR**—As you say in your submission, the number one issue uppermost in your mind is not to have a collision mid-air. Would that be right?

**Mr Bromley**—Yes, that is correct.

**Mr McARTHUR**—Surely that would encourage a level of cooperation between management and you and between your fellow officers to a very high degree. If you do not get that cooperation, spirit and culture of safety and operating together, then there could be a major problem.

**Mr McGuane**—Yes.

**Mr McARTHUR**—Why isn't that the current position?

**Mr Bromley**—I would say that Airservices, at the moment, is heading more and more towards being a very hard-nosed financial operation. All they are interested in is the bottom line.

**CHAIR**—Were there ever times when you had meal breaks and smoko breaks?

**Mr Bromley**—No.

**CHAIR**—Never?

**Mr Bromley**—No.

**CHAIR**—Is that because tea, coffee, soup and fruit juice near those control panels is a dangerous thing?

**Mr Bromley**—No. We have never had legislated breaks because there has always been an ability to eat and drink at the console. When we shifted into the two major new rooms, as Peter said, there was an edict that food and drink were not to be consumed in those rooms. We believe that is childish and unnecessary. There is no technical reason why you cannot eat and drink in that room. In fact, you saw the two major centres. There are also two smaller

centres exactly the same in Sydney and Cairns. There is no restriction on food and drink in those smaller centres.

**Mr McARTHUR**—To finish my line of questioning, you would be saying to the committee that you would be hopeful that management would put more attention to the fatigue issue than what they are now doing. Is that what you are telling us?

**Mr Bromley**—Absolutely.

**Mr McGuane**—I think we would say two things. Firstly, we would be hopeful that the regulator, CASA, would, as part of addressing the issue of human factors, reach a conclusion that it is appropriate for the limitation of duty hours to be applied to air traffic controllers and legislated. That recommendation would go to the government.

Secondly, we would hope and expect that the employer, Airservices, would recognise that there are fatigue issues involved and would introduce steps to address their duty of care responsibilities in that environment. It is our view that the academic studies that we have attached identify a duty of care and a responsibility. Obviously, in an area like aviation where safety is a paramount issue, we believe that is essential.

**CHAIR**—I have a couple of small issues. If someone reports to work fatigued, what is the regime? We have talked to the pilots and to engineers and they are all quite emphatic about this. If someone, for some reason, in some unusual circumstances, arrives at work fatigued or reports that they cannot come to work because of fatigue, what is the situation?

**Mr McGuane**—They have an obligation to effectively stand themselves down from duty.

**CHAIR**—Are they penalised for that?

**Mr McGuane**—There are financial penalties imposed for not adhering to those processes but to my knowledge they have never been invoked.

**Mr LINDSAY**—You mentioned low morale. Low morale amongst staff leads to stress, stress leads to fatigue. In the written evidence and from what you are saying, more than I have heard in this whole inquiry, there seems to be a ‘them and us’ situation, and I do not know which way around it is—‘us and them’ or ‘them and us’. If mortal enemies like Ansett and Qantas can get along in relation to fatigue issues, safety and so on and work together and get good outcomes and even if, dare I say it, the coalition and the Democrats can work together and get good outcomes, why can’t your association and Airservices work together to get good outcomes? What is wrong? Why is this there all the time?

**Mr Bromley**—I think the answer is that we would love to work together.

**Mr LINDSAY**—Okay, so you think that Airservices—

**Mr Bromley**—We would be prepared to join in any program that Airservices comes up with.

**CHAIR**—On that point: you said at the beginning of your evidence—and correct me if I am wrong—that the exemptions to rostering are breached pretty regularly. Is that correct—that you are asked to do additional shifts or to extend shifts?

**Mr Bromley**—I would not call them breaches. That is part of the current rostering principles where you—

**CHAIR**—Do you use the terminology ‘exemptions’?

**Mr Bromley**—No, we do not.

**Mr McGuane**—Dispensations from time to time.

**CHAIR**—We have had some evidence from one sector of the industry that exemptions are becoming the norm rather than the exception. Was that implicit in what you said in your opening remarks?

**Mr Bromley**—There are two aspects there. The first aspect is that air traffic control is staffed on the basis that if somebody goes sick, somebody at home is rung up to come in on their day off.

**CHAIR**—Yes, but that happens in all industries.

**Mr Bromley**—That happens in all industries, yes, and it probably cannot be done in any other way. However, we are quite often at the stage where there are not actually enough people to fill a roster, so if you need 20 people to run a particular roster on a sector, if you like—

**CHAIR**—Let me anticipate you: what you are saying is that, because of insufficient rostering, people are called in when they need not be if the roster was properly filled out?

**Mr Bromley**—No, I was actually going to say that it is not unusual for it to be the case that if you need 20 people to run a roster, there are only 18 there, so another two spots are continually filled by overtime—

**CHAIR**—That is the point I was making. You do not use the word ‘exemption’, but these unusual circumstances become part of a de facto rostering system?

**Mr Bromley**—It does so in some areas at some times. It waxes and wanes.

**CHAIR**—Regularly or infrequently?

**Mr Bromley**—In some areas it would be infrequently, in other areas it would be very regularly.

**CHAIR**—Have you brought this to the attention of Airservices?

**Mr Bromley**—BASI has. I think you raised it before.

**CHAIR**—I am asking: did you bring it to their attention?

**Mr Bromley**—Of course we do.

**CHAIR**—And they say?

**Mr Bromley**—It is their staffing.

**CHAIR**—You are staff and you do what you are told—that sort of thing?

**Mr Bromley**—Yes. That is one of the reasons why BASI investigated Sydney, because it was endemic in Sydney.

**CHAIR**—You are saying that in Sydney a lot of recommendations have not been implemented?

**Mr McGuane**—Yes, that is our understanding.

**CHAIR**—You should not have an understanding. You are the executive officer; you should know. You should be able to tell us. Is it or is it not being implemented? If you are not sure, put the question on notice. I am surprised you would come before us today, as critical as you have been of Airservices, and you, the two senior officers of the association, could not answer for us what aspects of the BASI report on Sydney airport have not been implemented. I suggest to you that it is your duty to know and to be able to report to Commonwealth parliamentary committees if you are taking your employer to task. You cannot have it both ways in this game.

**Mr Bromley**—Could I say in that regard that—

**CHAIR**—If you do not want to answer it, you have the mechanism of being able to put it on notice. We will write to you and you can respond in writing. You surprise me that you are not aware of it.

**Mr Bromley**—I think we will take that question on notice. Could I also say that we have many inquiries and reports—OH&S reports. It is absolutely endless and it is almost impossible for us to keep up with every report and every issue that has never been implemented.

**CHAIR**—I am talking about your relationship with your members in the Sydney airport area that have been the subject of a BASI report. You have said to me anecdotally that BASI's recommendations have not been implemented. When I have asked you about it you said you have heard or you are not quite sure.

**Mr Bromley**—We cannot be specific—

**Mr McGuane**—I think having taken the oath that we did before giving evidence, it would be inappropriate for us to make guesstimates about that particular situation.

**CHAIR**—We would like to know about the situation because I think it is critical. If BASI have gone to the trouble of making a recommendation and you tell us that anecdotally it has not been implemented, we would like to know about it.

**Mr Bromley**—Parts of it but not all of it. I think we said not all of it.

**CHAIR**—We can put that on notice.

**Mr Bromley**—Yes.

**Mr McARTHUR**—Can I raise the issue of remuneration and its relationship to fatigue matters. Are you happy with the remuneration your officers receive? Is it annualised? Is there a problem of stress related pressure because of remuneration?

**Mr McGuane**—No, we are governed by an enterprise agreement to which we are a respondent party before the Industrial Relations Commission. That agreement is binding until 2001. It is a negotiated outcome that provides for annual increases and increases on a percentage basis at specified times throughout the agreement, plus an additional provision for productivity returns. So we are satisfied and agree to the terms and conditions specified in the enterprise agreement.

**Mr McARTHUR**—There is no overtime component?

**Mr McGuane**—No. In 1992, as part of an enterprise agreement, allowances were rolled up by introducing a percentage loading on top of base salary to take account of those factors.

**Mr McARTHUR**—Do you think your officers are well paid by community standards or under paid for their responsibilities?

**Mr McGuane**—The community standard in our view and the responsibility it attaches is an international rather than a domestic comparison. You have to look at the international market. By comparison, I suppose Australia sits somewhere in the mid to upper level range, but certainly not anywhere near the top of salaries paid internationally.

**Mr McARTHUR**—Mid to upper range?

**Mr McGuane**—Mid to upper range.

**Mr McARTHUR**—Relative to living costs, if you took that into account in some of the other metropolitan cities, where would you end up then?

**Mr McGuane**—Do you mean domestically or internationally?

**Mr McARTHUR**—If you are making a comparison and looked at some of the other cities where aircraft controllers operate, their living costs might be different. Have you taken that into account in the relativities?

**Mr McGuane**—Yes, we certainly have. In 1989, that specific question was part of a study undertaken by a group appointed by the Prime Minister. It resulted in a total structural change of air traffic control and a new system of addressing relativities within a structure. So the answer to your question is yes, most definitely, and that has been taken into account and addressed.

**CHAIR**—Are you paid overtime at the end of a 7½ or eight hour shift or is it a cumulative thing paid at the end of 38 or 40 hours?

**Mr Bromley**—It is cumulative; it is added up. Any overtime is paid with your fortnightly salary as an addition.

**CHAIR**—How many hours can you be asked to work over and above the rostered day?

**Mr Bromley**—We are not allowed to work more than 10 days in a row, and that is part of the rostering system.

**CHAIR**—No. How many hours?

**Mr Bromley**—On top of your rostered shift, a maximum of two.

**CHAIR**—Two. Is there any overtime consideration for that or is it just added—

**Mr Bromley**—That is paid as overtime.

**Mr McARTHUR**—Are you telling me you are being paid overtime? I thought you said to me you were paid an annual salary.

**Mr Bromley**—We are paid an annualised salary, but if you are called in to work on your days off or you stay on for extra hours after the normal end of your shift, that is on an overtime basis.

**Mr McARTHUR**—Some of us would debate your definition of annualised salary.

**Mr Bromley**—The annualised salary in that case rolls up the normal shift allowances—which is what they used to be called—in other words, those for the Saturday or Sunday work or midnight work. Annualised is—

**CHAIR**—So it is a seven-day a week annualised salary, but anything done beyond the span of hours for the day or for the week attracts a special overtime payment?

**Mr Bromley**—Yes, that is correct.

**Mr McARTHUR**—Does that bring about a fatigue related activity because of some anxiety and stress in working the extra hours and the money involved?

**Mr Bromley**—That is one of the issues that both Airservices and our organisation grappled with. People become used to working continual overtime and they become used to,

if you like, earning a higher income because of it. Of course, we would prefer to see less overtime worked, but sometimes the people would prefer to work the overtime to get the money.

**Mr McARTHUR**—I noticed that a number of the other industries, particularly the waterfront, have cashed out their overtime, made an annualised salary of a bigger nature and let it be at that. Are you moving in that direction?

**Mr McGuane**—We will not have the capacity to be able to do that until the expiration of the current enterprise agreement.

**CHAIR**—We have gone well over our time, but I thought it was important that we should because you people stand right at the coalface of air safety in this country. We would like you to provide us then with an insight into which recommendations of the BASI report have not been implemented at Sydney, so that is the principal thing we would like to know. We would also like you to inform us from your international organisation and from the Sydney-Cairns TAAATS centres whether or not it is considered good aviation practice to be able to have a snack at the console of the operations centre.

**Mr Bromley**—I can provide you almost immediately with an OH&S report written by a consultant, which actually recommends that.

**CHAIR**—I do not want a consultant. I would like you to probe those organisations and then come back to us. Thank you very much for appearing before the committee today.

[2.14 p.m.]

**CARR, Mr Gary George, Company Secretary/National Director, Sleep Disorders Australia**

**CHAIR**—Mr Carr, I need to caution you, as I have all witnesses, that in these committee proceedings you are not required to give evidence under oath, but the proceedings of the committee carry the same weight as those of the House itself and as such need to be treated with respect. Any false or misleading evidence may be considered a contempt of the parliament. Would you like to give us an overview of your submission?

**Mr Carr**—Yes, Mr Chairman. Sleep Disorders Australia is a volunteer organisation offering support and assistance to persons and families that suffer with some form of sleep disorder. Listening to some of the witnesses I have heard today, I see that I am going to be talking about something completely different to what you have been talking about up to date.

**CHAIR**—Do not be inhibited by that; go for it.

**Mr Carr**—What we are looking at is the individual carnage on the road and road safety. We are of the firm opinion that the particular problem of sleep apnoea causes untold accidents and deaths in Australia and throughout the world.

**CHAIR**—You are talking privately as well as commercially, are you?

**Mr Carr**—Yes. In 1994, the New South Wales parliament held a standing committee hearing on the truck industry, and they looked at all the different problems in fatigue in the truck industry. They came to the point that sleep apnoea was one of the road problems. In fact, I understand now that in New South Wales before a driver gets his licence renewed, he must have a medical examination. If the doctor sees fit, they go off for a sleep study for sleep apnoea. I am not saying that we should do that for the private individual, but I think that is something that should be looked at from the trucking point of view on a national basis.

Sleep apnoea is probably the most common of all sleep disorders because it is easily determined and it is easily treated. A lot of the research that I have added to our submission has come from the United States—where most of the research moneys are available and research is carried out by a lot of universities over there—but it all relates to Australia and to the Western world in general. The previous witnesses referred to a report by Professor Drew Dawson from Adelaide, which says that in relation to fatigue on the road, as far as a shift worker is concerned, his equivalent alcohol blood level would be very high.

One of the submissions in our report is that many studies have been done in England and in Spain, where they have taken groups of people such as unaffected people and people with untreated sleep apnoea. It has been found universally in driver simulation tests that the untreated sleep apnoea sufferers were worse drivers than the category of unaffected people with a blood alcohol level in excess of 0.08. What I am saying is that people with sleep apnoea can be worse than drunk drivers and I think that showed in our report.

The Ashe Memorial Hospital in the United States reports that approximately 100,000 crashes a year in America are related to fatigue and 75 per cent of those are single vehicle accidents. That is where we believe the problem lies—in single vehicle accidents. They classify that there are four high-risk groups: young males aged 18 to 25; night shift workers on rotating shifts, which is what you have been talking about recently; people who drive long distances such as truck drivers; and then people with sleep problems, particularly sleep apnoea. There are the four areas. We are looking at the sleep problems.

We have done a pilot study in Tasmania on this particular subject. It has been funded by the Motor Accident Insurance Board, which is the underwriter of compulsory third party insurance. They have contributed \$95,000 to our organisation over the last two years. We are running an information program to the public with television and radio commercials, newspaper ads and information nights. We have only just started this in the last six months and the number of people that have passed through our hands with the symptoms has been absolutely incredible. We are putting a bit of pressure on the health system. It cannot take much more, I realise that, but the sleep physicians tell us that our campaign in Tasmania must be working because the waiting lists for sleep studies and sleep physician consultations are getting longer and longer.

I refer to your terms of reference, particularly looking for ways to achieve greater responsibility by individuals, companies, et cetera, to reduce fatigue in transport. We have prepared a plan as an idea of what could be done on a national basis to reduce fatigue in relation to sleep disorders.

**CHAIR**—Are there any other disorders besides apnoea?

**Mr Carr**—Yes. There are something like about 80.

**CHAIR**—What are the principal ones after apnoea?

**Mr Carr**—There is apnoea and there is narcolepsy, which is a brain related problem. There is insomnia, of course, and there is another problem called restless legs, or a restless limb movement in sleep that upsets the sleeping pattern. There are four levels of sleep and you must get into the deep rejuvenating sleep so that you can wake up refreshed. People with sleep disorders, particularly sleep apnoea, very rarely get into the rejuvenating sleep area, so therefore they wake up every morning as if they have got a hangover or as if they have never been asleep, even though they have been in bed and asleep for eight hours.

**CHAIR**—Are there medical practitioners in Australia who specialise in that?

**Mr Carr**—Oh yes. Many hundreds.

**Mr GIBBONS**—Why is it that sleep apnoea leads to serious life threatening conditions, like hypertension, heart disease, brain dysfunction, and obesity?

**Mr Carr**—What happens is that with sleep apnoea, the airway is totally blocked. Apnoea is the Greek word for ‘without breath’. The airway totally collapses and no air gets into the lung system. Therefore, the oxygen blood level reduces and can cause severe

problems. There is, I believe, coming out in an Australian medical journal shortly research that proves that sleep apnoea and stroke virtually go hand in hand. If you look at a situation where there is no breath in the body then the brain, the lung and the heart are trying to get you to start breathing again and you are putting enormous pressure on to the heart, in particular.

**Mr LINDSAY**—Is this affected quite significantly by alcohol in the blood?

**Mr Carr**—Yes, alcohol does do that. Alcohol can cause the floppy tissue at the back of the neck to relax more than normal and it falls down over the airway.

**Mr GIBBONS**—How is it diagnosed?

**Mr Carr**—The first thing is that they must go to a GP, of course, and then be referred to a sleep specialist. There are many hundreds of them in Australia.

**Mr GIBBONS**—Why would you do that? What would be the symptoms that would cause you to do that?

**Mr Carr**—Going to sleep as soon as you wake up in the morning. You sit down and have your breakfast and then nod off to sleep even though you have been to bed for eight hours. You could fall asleep in your motor car sitting at traffic lights, which I have done. You can virtually fall asleep anywhere.

**CHAIR**—Have you suffered from one of these complaints?

**Mr Carr**—I have sleep apnoea.

**CHAIR**—Have you actually fallen asleep at a traffic light?

**Mr Carr**—I certainly have and on more than one occasion. I am very passionate about this.

**CHAIR**—Are you being treated now?

**Mr Carr**—I have been treated since 1992 and I am a better driver now than I ever was. At 60 years of age I am a better driver now than I was when I was 20.

**Mr LINDSAY**—I am just looking at your web site and it surprises me when it says that sleep apnoea is a common disorder affecting—

**CHAIR**—I am not sure if that is relevant. It is on the margin.

**Mr LINDSAY**—It says that sleep disorders affect five per cent of the population. That is one in 20 drivers out there.

**Mr Carr**—Yes, that is exactly right.

**Mr LINDSAY**—That is the point, Mr Chairman.

**CHAIR**—You could have asked the witness if he approved the use of his web site.

**Mr Carr**—I approve. That is very pertinent—

**Mr LINDSAY**—That is surprising. I did not understand it was so prevalent.

**Mr Carr**—It is phenomenal. To get this started in Tasmania we did the research on licensed drivers down there. Among people over the age of 40, there are 159,000-odd licensed drivers in Tasmania. We look at the situation that if you look at a broad spectrum of five per cent and if you finite it down, 24 per cent of males and nine per cent of females over the age of 30 have the condition of sleep apnoea and are undiagnosed.

**CHAIR**—Sleep apnoea but not all conditions?

**Mr Carr**—Just sleep apnoea. When I went back to the Tasmanian situation, that meant that there were somewhere in excess of 16,000 drivers just in our little state who suffered from this problem. Since we started our campaign we have found 1,000 of them so we have a long way to go. If you relate that from a population of 450,000 to a population of 18 million, there are a lot of people out there.

**CHAIR**—I understand your passion for this but you understand that we have to relate this back to transport.

**Mr Carr**—Yes.

**CHAIR**—What is important is to find regimes of treating people for apnoea.

**Mr Carr**—Yes.

**CHAIR**—The vast majority of people that the experts will listen to and people who have appeared as witnesses say that we should not deprive transport drivers of their licences if they have apnoea but they should be required to enter into some form of treatment. Is that the view of your association?

**Mr Carr**—Yes, it is. If you look at the statistics coming out of the United States, California and three other states of America have made sleep apnoea a notifiable disorder.

What I mean by that is that if somebody goes to a sleep physician and it is proved conclusively they have sleep apnoea, they have 28 days to go on to treatment. The first night you have treatment you are a totally different person. In those four states in America, after 28 days the physician will follow that person up. If they have not had the treatment that is necessary, the physician reports them to the Road Transport Authority in the state and they have their licence cancelled on the spot.

**CHAIR**—Even the domestic licence?

**Mr Carr**—Yes.

**CHAIR**—Quite apart from the commercial one, the domestic as well?

**Mr Carr**—Yes, the whole lot.

**CHAIR**—Would you advocate going that far in Australia?

**Mr Carr**—I think that is going a little bit too far, but I do think there should be something.

**CHAIR**—It is a measure of the importance.

**Mr Carr**—It is. I know of, but I cannot say this categorically because the final coronial outcome has not been handed down—

**CHAIR**—If this is sub judice just speak in very general terms.

**Mr Carr**—I know of accidents that have caused death through people having sleep apnoea. People have been diagnosed with sleep apnoea and have not had treatment but continued to drive.

**Mr McARTHUR**—There has been a legal difficulty in establishing those two—

**Mr Carr**—In a particular case I know of there is no difficulty whatsoever.

**Mr McARTHUR**—Would you make an observation across the board? Do you think it should be a legal matter in Australia? Do you think we could in Australia bring in a legislative program to deal with people who have sleep apnoea?

**Mr Carr**—I think we should. I think there should be some sort of program brought into place where people have to do something about the problem. Right now the major treatment is wearing a mask to bed of a night. You use a small vacuum cleaner in reverse. It is a small machine that sits beside your bed. It blows air in and different people have different pressures. You wear a small mask on your nose and that keeps the airway apart. That acts as a pneumatic splint. When you tell people that you have to do that sort of thing for the rest of your life, some people think that that is not the sort of thing that they want to do.

**CHAIR**—There is no surgical treatment for this complaint?

**Mr Carr**—That was the first thing that used to happen back in the 1980s, but the sleep physicians are now saying that that is not an option because what happens when the soft tissue is cut away, it grows back again. So a person has to keep going back and having it cut. If you have had children who have had tonsillitis, you will know it is not very good.

**CHAIR**—You have proposed in your submission a program. Would you like to just say a few words on that?

**Mr Carr**—I have suggested an idea of what a national drivers' campaign could comprise. It is meant to be over a two-year period and it is based on the Tasmanian model.

**CHAIR**—By the way, are you a registered company?

**Mr Carr**—Yes, we are.

**CHAIR**—Are you registered under the charitable collections act as well?

**Mr Carr**—Yes, we are. We are a public benevolent institution.

**CHAIR**—I am sorry to interrupt. Keep going.

**Mr Carr**—The whole situation is based around our TV commercial, our Internet web site and printed pamphlets. That was the first part of our program. That was funded in total by the Motor Accidents Insurance Board. We ran the TV commercials as a community service announcement on TV so it would go on any time of the day at the will of the TV stations.

At times when the ratings were down we would see quite a lot of our ads, but then as the ratings war was on the ads got less and less. We put a proposition to the Motor Accidents Insurance Board for this financial year. What we do now is that we still have those community service announcement ads, but we now run them as paid commercials with a tag on the end to say that we are having an information night at a certain place. Last Tuesday we were in Hobart, this Tuesday we are in Launceston and in a fortnight's time we are in Devonport. We have 19 meetings planned.

**CHAIR**—How do you fund your activities?

**Mr Carr**—This particular thing is funded wholly and solely by the MAIB and by sponsorship from the corporate sector.

**CHAIR**—What is the MAIB?

**Mr Carr**—The Motor Accident Insurance Board, which is the underwriter of compulsory third party in Tasmania. As far as our organisation is concerned, we are funded by our membership fees.

**CHAIR**—Have you applied to any federal agencies for funding.

**Mr Carr**—We applied to the Department of Health and Aged Care earlier in the year and did not receive any funding whatsoever. We have volunteers and we are doing the best we can under the circumstances.

**CHAIR**—We are looking for ways to help you. I am not being critical.

**Mr Carr**—I can give you plenty of ways you can help, Mr Chair.

**CHAIR**—Is it the wish of the committee that this proposal be incorporated in the transcript of evidence? There being no objection, it is so ordered.

*The document read as follows—*

**Mr Carr**—As you can see, our work is based on that proposal. We have found that people are interested. To give you an idea: it might sound like a small number, but at a meeting in Hobart last week 44 people turn up as a result of the TV and radio ads—I had been on radio giving an interview, et cetera. Of those 44 people, 34 men came by themselves as a result of either their or, more likely, their partners recognition of the symptoms and the others were brought along by their partners. I would say that every one of those people at the meeting had self-diagnosed sleep apnoea. We had three truck drivers and four taxi drivers as well as domestic drivers.

**Mr McARTHUR**—What was the result of your meeting?

**Mr Carr**—Those men went straight to their GPs to get a referral to a sleep physician.

**Mr McARTHUR**—So they really did something about it?

**Mr Carr**—Yes.

**Mr McARTHUR**—So you made an immediate impact?

**Mr Carr**—Yes, an immediate impact; they went the following day. We can follow those people up because they are all registered.

**Mr McARTHUR**—Would you be making the judgment that you might have saved a couple of lives in Tasmania?

**Mr Carr**—I hope I have.

**CHAIR**—And you would like to do this nationally?

**Mr Carr**—I certainly would. I see that there is a great need for it. As I said, I am a sleep apnoea sufferer myself. I was diagnosed in Tasmania. We did not have a sleep unit in the early 1990s, so I was sent up to the Royal Prince Alfred Hospital in Sydney for my sleep study. I went in overnight and my sleep was monitored. When I woke up the next morning they said, ‘You stopped breathing 211 times during the night.’ People have been known to have stopped breathing up to 600 times a night. The cessation of breathing lowers the blood oxygen level, which causes problems such as heart attacks.

**CHAIR**—What sort of work do you do?

**Mr Carr**—I am retired now, but I was an insurance company manager. I used to travel all over Tasmania. I used to have to limit the time that I was on the road. If I was working in Hobart—and I lived in Launceston—if I was going leave—

**CHAIR**—Did you know you had apnoea at that stage or were you just fatigued?

**Mr Carr**—I was just fatigued. I had no idea—and I was like it for 20 years—that I had any problem. I just thought I was a bad sleeper. If I had to leave at night time, I used to stay in Hobart overnight. Even though it is a two hour journey, I would not have made it home.

That has changed since I have been on treatment. I attended a meeting in Hobart some six or seven weeks ago. I left Hobart at 10.30 in the evening and drove all the way home in the pouring rain. I got home about a quarter to one in the morning and felt as refreshed as I was when I first woke up that morning.

**CHAIR**—Do you have any closing comments? My colleagues have exhausted their questions.

**Mr Carr**—I think we have covered everything that I needed to cover.

**CHAIR**—I would like to thank you very much. You have gone to a lot of trouble coming from Launceston to see us. We appreciate that very much. You have given us a totally different perspective from all other evidence. That is what makes these committees rich in their input. You are a community organisation at the coalface of trying to treat this problem, and we appreciate what you do in that sphere.

We appreciate your putting your views and your submission on the record. As I said, we have ordered that your proposal be incorporated in *Hansard* so that it will appear in the official record of this inquiry. You will receive a draft of the report. I wish you well in your endeavours. If we require any more material, I trust we can write to you.

**Mr Carr**—Yes.

**CHAIR**—Thank you.

Resolved (on motion by **Mr McArthur**):

That this committee authorises the broadcasting of this public hearing and the publication of the evidence given before it this day.

**Committee adjourned at 2.59 p.m.**

