

The Senate

Rural and Regional Affairs
and Transport
References Committee

Aspects of road safety in Australia

October 2017

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Senator Chris Back (to 22 June 2017)	Western Australia, LP
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List of recommendations

Recommendation 1

1.33 The committee recommends that the Minister for Infrastructure and Transport initiate discussion on road trauma funding at the Council of Australian Governments Transport and Infrastructure Council (TIC) with a view to encouraging effective investment in road trauma funding across the nation.

Recommendation 2

1.43 The committee recommends that the Australian Government commit to a robust set of national minimum safety standards for all vehicles, including second hand vehicles and the government fleet, as part of its proposed reform of the *Motor Vehicle Standards Act 1989*.

Recommendation 3

1.51 The committee recommends that the Australian Government explore methods to introduce Australian Design Rules (ADRs) in a timely manner to ensure that Australia benefits from, and keeps pace with, international developments in vehicle safety technology.

Recommendation 4

2.52 The committee recommends that, if not adequately addressed through the recommendations of the Migrant Workers' Taskforce, the Department of Immigration and Border Protection comprehensively review visa arrangements to address systematic or organised abuse in the transport industry.

Recommendation 5

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

Recommendation 6

2.62 The committee recommends that legislation in South Australia, Western Australia and Northern Territory be amended (consistent with other state and territory jurisdictions) to ensure that overseas drivers who fail a driving test are no longer allowed to use their overseas licence to drive in Australia.

Recommendation 7

3.36 The committee recommends that the Australian Government convene a series of industry-led roundtables to make recommendations to government to establish an independent industry body which has the power to formulate, implement and enforce supply chain standards and accountability as well as sustainable, safe rates for the transport industry.

Recommendation 8

3.56 The committee recommends that the Australian Government convene a series of industry-led roundtables to make recommendations to government on ways to strengthen the Heavy Vehicle National Law.

Recommendation 9

3.57 The committee recommends that, informed by industry roundtables, the Australian Government amend the Heavy Vehicle National Law to address issues throughout the supply chain in the transport industry including chain of responsibility, minimum payment terms of 30 days and electronic work diaries.

Recommendation 10

4.69 The committee recommends that the Austroads review consider:

- raising the standard required of heavy vehicle drivers under the Heavy Vehicle Competency Based Assessment (HVCBA), with a renewed focus on safety; and
- national consistency in relation to heavy vehicle instructor or assessor eligibility, including requiring mandatory industry experience in driving and handling the appropriate vehicle.

Recommendation 11

4.70 Following the Austroads review, the committee recommends that the COAG Transport and Infrastructure Council work to ensure that all jurisdictions adopt the revised criteria of the National Heavy Vehicle Driver Competency Framework (NHVDC Framework) as a matter of urgency.

Recommendation 12

4.71 The committee recommends that the Australian Skills Quality Authority (ASQA) take a more active role in monitoring the delivery of heavy vehicle training undertaken by registered training organisations and other providers.

Abbreviations

AAA	Australian Automobile Association
ADR	Australian Design Rules
ADTA	Australian Driver Training Association
ANCAP	Australasian New Car Assessment Program
ASQA	Australian Skills Quality Authority
ATA	Australian Trucking Association
BITRE	Bureau of Infrastructure, Transport and Regional Economics
COAG	Council of Australian Governments
CoR	Chain of Responsibility
DIRD	Department of Infrastructure and Regional Development
EWD	electronic work diaries
HR	Heavy Rigid
HVCBA	Heavy Vehicle Competency Based Assessment
HVNL	Heavy Vehicle National Law
ICAC	Independent Commission Against Corruption
IEO	Inspector Enforcement Officers
HC	Heavy Combination
NHVR	National Heavy Vehicle Regulator
NHVDC	National Heavy Vehicle Driver Competency
NTC	National Transport Commission
RAC	Royal Automobile Club
RMS	Roads and Maritime Services
RTO	Registered Training Organisation
TEPS	Traffic Emergency Patrol Staff
TIC	Transport and Infrastructure Council
TMR	Transport and Main Roads
TWU	Transport Workers' Union
VET	Vocational Education and Training

Chapter 1

Introduction and overview

Conduct of the inquiry

1.1 On 30 October 2014, the Senate referred the following matter to the Rural and Regional Affairs and Transport References Committee (the committee) for inquiry and report by 9 September 2015:

Aspects of road safety in Australia, having particular regard to:

- a) the social and economic cost of road-related injury and death;
- b) the importance of design standards on imported vehicles, as Australian vehicle manufacturing winds down;
- c) the impact of new technologies and advancements in understanding of vehicle design and road safety;
- d) the different considerations affecting road safety in urban, regional and rural areas;
- e) other associated matters.

1.2 The Senate granted extensions of time for reporting on 13 August 2015, for reporting by 26 November 2015, on 15 September 2015 for reporting by 2 March 2016 and on 29 February 2016 for reporting by 3 June 2016.

1.3 On 9 May 2016, the inquiry lapsed with the dissolution of the Senate and the House of Representatives for a general election on 2 July 2016.¹

1.4 On 15 September 2016, the Senate re-referred the inquiry to the committee with a reporting date of 18 October 2017.² On 17 October 2017, the Senate granted a further extension for reporting to 26 October 2017.

1.5 After the inquiry was advertised on the committee's website and in *The Australian* on 4 February 2015, the committee received 75 submissions from interested organisations and individuals. Submissions are listed in Appendix 1 and are available on the committee's website.

1.6 Appendix 2 lists the persons and organisations who gave evidence at the committee's public hearings, which were held in:

- Sydney on 2 July 2015 and 26 June 2017;
- Melbourne on 3 July 2015;

1 *Journals of the Senate* No. 147, 9 May 2016, p. 3964.

2 *Journals of the Senate* No. 7, 15 September 2016, p. 225.

- Adelaide on 26 October 2015;
- Perth on 18 February 2016; and
- Canberra on 14 August 2015, 25 February 2016, 22 March 2016, 10 November 2016, 15 February 2017, 8 and 29 August 2017.

Acknowledgement

1.7 The committee thanks all contributors to the inquiry, including those individuals and organisations who provided evidence to the committee on several occasions.

Interim report

1.8 The committee tabled a substantive interim report on 3 May 2016. The interim report made 17 recommendations (at Appendix 3) in relation to:

- the social and economic cost of road deaths and injuries, including the impact on vulnerable road user groups;
- the role of design standards and emerging road safety technology;
- road safety challenges in regional and rural areas and the adequacy of driver education throughout Australia; and
- emerging issues for the heavy vehicle industry, including licensing, training and accreditation for Australian and overseas drivers.

1.9 The committee notes that at the time of tabling this report, a government response to the interim report had yet to be provided, despite the requirement for the Government to respond to committee reports within three months of tabling.³

Structure of the final report

1.10 Issues relating to the heavy vehicle industry were at the centre of the committee's inquiry into aspects of road safety in Australia. As hearings progressed, new and startling evidence emerged about the dangerous behaviour of individual drivers, together with systemic failures in administration and policy. To make these matters worse, the abolition of the Road Safety Remuneration Tribunal (by legislation on 18 April 2016) removed a much-needed layer of protection for the industry.

1.11 Longstanding issues for the heavy vehicle industry with regard to overseas drivers, including licensing, training and visa status, are discussed in Chapter 2 of this report. It is the committee's view that these issues will only be exacerbated in a less regulated environment.

3 *Journals of the Senate*, 14 March 1973, p. 51.

1.12 Chapter 3 considers the need to find economic solutions for an industry facing a high road toll from truck crashes and a shortage of skilled drivers. It discusses the need for broad consensus to prioritise chain of responsibility laws, the use of electronic work diaries and to provide for 30 day minimum payment terms.

1.13 In Chapter 4, the committee examines the gap between the ideal and reality with regard to heavy vehicle training in Australia and the need for a better national scheme.

Road safety policy and national coordination

Transport Infrastructure Council and National Road Safety Strategy 2011–2020

1.14 In its interim report of May 2016, the committee noted that Australia does not have a unified road safety system. Each state and territory is responsible for its own road network and has implemented model legislation which is overseen by a range of cross-jurisdictional agencies. To provide for a 'coordinated and integrated' approach, the national Transport and Infrastructure Council (TIC) was established by the Council of Australian Governments (COAG) in 2013.

1.15 Evidence to the committee suggested that there is a strong commitment to the Safe System approach⁴ as outlined in the *National Road Safety Strategy 2011–2020* (the strategy) and endorsed by the TIC.⁵ Some submitters, however, queried whether the approach meets the needs of vulnerable road users, including cyclists and motorcyclists. The committee made recommendations in its interim report to strengthen the protections available to these vulnerable road user groups.

1.16 Under the strategy, jurisdictions have committed to achieving a 30 per cent annual reduction of road-related deaths and serious injuries by 2020.⁶ The strategy presents a 10-year plan to reduce the annual numbers of both deaths and serious injuries on Australian roads.⁷

1.17 The committee is seriously concerned by recent evidence which suggests that progress towards a reduction in road deaths has slowed. When questioned during Budget Estimates in May 2017, the Department of Infrastructure and Regional Development (DIRD) provided evidence that, rather than trending towards the

4 Australian Transport Council, *National Road Safety Strategy 2011-2020*, p. 3.

5 Mr Bernard Carlon, Acting General Manager, Transport for New South Wales, Centre for Road Safety, *Committee Hansard*, 2 July 2015, p. 15; Ms Samantha Cockfield, Senior Manager, Road Safety, Transport Accident Commission of Victoria, *Committee Hansard*, 14 August 2015, p. 49; Mr Robert McDonald, Senior Manager, Research Centre, Insurance Group Australia, *Committee Hansard*, 2 July 2015, p. 1.

6 Australian Transport Council, *National Road Safety Strategy 2011-2020*, p. 3.

7 Australian Transport Council, *National Road Safety Strategy 2011-2020*, p. 3.

targeted 30 per cent, an annual reduction of nine per cent had been achieved. Deputy Secretary, Ms Judith Zielke, stated:

...we have had a recent change in trends in relation to road deaths. In particular, we have gone from a situation where we had achieved almost 18 per cent against that 30 per cent in relation to the target we had set. More recently our figures have actually deteriorated down to only nine per cent as against that 30 per cent.⁸

1.18 This worrying trend has not gone unnoticed by the Australian community. The Australian Automobile Association (AAA) highlighted in its December 2016 report *Benchmarking the performance of the national road safety strategy* that:

...in the year to December 2016, there was a 7.9 per cent increase in the number of deaths on our roads. This means the annual road toll for December 2016 is the worst since March 2013, and the same as May 2011. In effect, these results are little better than when the NRSS was agreed to more than five years ago. In total in 2016 1,300 people died on our roads, 95 more than in 2015.⁹

1.19 The AAA's June 2017 benchmarking report recorded 'a decrease of 1.3 per cent' in the 12 months to June 2017, concluding that 'the strategy will not deliver the targeted 30 per cent reduction in road deaths'.¹⁰

Review of the National Road Safety Strategy

1.20 Noting the lack of progress in reducing the road toll, the committee awaits the results of a review into progress against the strategy. The committee was informed that on 19 May 2017, the TIC agreed to establish an independent reference group to 'inquire into progress under the National Road Safety Strategy 2011–2020'.¹¹ The Secretary of DIRD, Mr Mike Mrdak, explained that:

The minister agreed with his state colleagues to appoint an expert panel to review our progress on the National Road Safety Strategy. That will be done as an additional review, with advice coming back to ministers as soon as possible this year.¹²

8 Ms Judith Zielke, Department of Infrastructure and Regional Development, Rural and Regional Affairs and Transport Legislation Committee, *Committee Hansard*, 23 May 2017, p. 119.

9 Australian Automobile Association, *Benchmarking the performance of the national road safety strategy*, December 2016, p. 6 <<http://www.aaa.asn.au/files/download/?id=1090>> (accessed 4 September 2017).

10 Australian Automobile Association, *Benchmarking the performance of the national road safety strategy June 2017*, 31 July 2017, p. 5 <<http://www.aaa.asn.au/files/download/?id=1164>> (accessed 4 September 2017).

11 Transport and Infrastructure Council, *Communique*, Brisbane, 19 May 2017, p. 3.

12 Mr Mike Mrdak, Department of Infrastructure and Regional Development, Rural and Regional Affairs and Transport Legislation Committee, *Committee Hansard*, 23 May 2017, p. 121.

1.21 Noting that such a review should be at the top of the government's priorities, the AAA has described this review as 'an urgent task'.¹³

1.22 The committee notes with concern that no additional funding was allocated in the 2017–18 Budget for the review of the strategy. Instead, funding for the review will be drawn from 'within existing departmental resources'.¹⁴

Road safety trauma funding

1.23 In its interim report, the committee reported that the number of road deaths per 100 000 Australians had risen during 2015 to 5.1.¹⁵ The number of deaths on our roads rose by 6.4 per cent in 2016 to 5.4 per 100 000 Australians.¹⁶

1.24 The committee notes with some relief that as of September 2017, the rate of annual deaths per 100 000 Australians has declined slightly, to 5.0.¹⁷ However, this number remains worryingly high, and far short of the goals established by the Australian Government under the National Road Safety Strategy. The committee will continue to monitor this data closely and encourages all jurisdictions to do the same.

1.25 The committee heard evidence during this inquiry about the considerable costs of road trauma. In terms of financial cost, road trauma costs the Australian taxpayer around \$27 billion or 1.8 per cent of gross domestic product per year.¹⁸ This amount is separate to the incalculable human, social and psychological costs of grief and loss that flow from road death and serious injury. There are also substantial health and community care costs. Support services, particularly in rural and regional areas are disparate and often inadequate, leaving affected families with the options of going without, or travelling often long distances to receive appropriate specialised care.¹⁹

13 Australian Automobile Association, *Benchmarking the performance of the national road safety strategy June 2017*, 31 July 2017, p. 5 <<http://www.aaa.asn.au/files/download/?id=1164>> (accessed 4 September 2017).

14 Mr Mike Mrdak, Department of Infrastructure and Regional Development, Rural and Regional Affairs and Transport Legislation Committee, *Committee Hansard*, 23 May 2017, p. 121.

15 Rural and Regional Affairs and Transport References Committee, *Aspects of road safety in Australia*, Interim report, May 2016, p. 5.

16 Bureau of Infrastructure, Transport and Regional Economics, *Road deaths Australia; December 2016*, p. 1, http://bitre.gov.au/publications/ongoing/rda/files/RDA_Dec_2016.pdf (accessed 6 October 2017).

17 Bureau of Infrastructure, Transport and Regional Economics, *Road deaths Australia; September 2017*, https://bitre.gov.au/publications/ongoing/rda/files/RDA_Sep_2017.pdf (accessed 19 October 2017).

18 Rural and Regional Affairs and Transport References Committee, *Aspects of road safety in Australia*, Interim report, May 2016, p. 5.

19 Rural and Regional Affairs and Transport References Committee, *Aspects of road safety in Australia*, Interim report, May 2016, p. 6.

1.26 To increase national understanding of the scale of road trauma, the committee recommended in its interim report that the Commonwealth Government commit \$150 000 for three years from 2016–17 to fund the continued operation of the Australian Trauma Registry. The registry provides nationally consistent data on road trauma, serious injuries and related outcomes which is gathered from Australia's major hospitals.²⁰ The committee notes that this recommendation received the public support of the Royal Australian College of Surgeons²¹ and the AAA.²² The AAA Chief Executive, Mr Michael Bradley, described the recommended funding as a 'very small investment' in a national measure of the severity of road crashes. He recognised the committee's recommendation as an important first step, arguing that 'we cannot fix a problem that cannot be measured'.²³

1.27 The provision of nationally consistent road trauma data would enable respective governments to target the areas of greatest need, and thereby maximize investment in road safety. However, the committee also acknowledges that greater awareness of road safety investment initiatives would assist all states and territories to make the best use of their road trauma funding.

1.28 In terms of state-based road trauma funding, Western Australian third party insurer RAC called for a much greater investment in the state's Budget. It emphasised the point that road trauma funding was particularly important in regional areas where '61 per cent of WA road deaths occurred' in 2016, despite regional areas housing only 21 per cent of the population.²⁴

1.29 Similarly, in NSW, insurer NRMA suggested that an extra \$1.5 billion needed to be spent on road trauma in regional and rural NSW alone. Its *Funding Local Roads: Recommendations to clear the infrastructure backlog* report found that around 75 per cent of the road trauma in NSW occurred on those roads.²⁵ NRMA Regional

20 Rural and Regional Affairs and Transport References Committee, *Aspects of road safety in Australia*, Interim report, May 2016, pp 9–10.

21 Royal Australian College of Surgeons, *Funding options for the Australian Trauma Registry*, 27 May 2016, <<https://www.surgeons.org/media/college-advocacy/funding-options-for-the-australian-trauma-registry/>> (accessed 6 October 2017).

22 Australian Automobile Association, *Road trauma recommendation must be heeded*, 4 May 2016, <<http://www.aaa.asn.au/news-and-publications/news/article/?id=road-trauma-recommendation-must-be-heeded>> (accessed 6 October 2017).

23 Australian Automobile Association, *Road trauma recommendation must be heeded*, 4 May 2016, <<http://www.aaa.asn.au/news-and-publications/news/article/?id=road-trauma-recommendation-must-be-heeded>> (accessed 6 October 2017).

24 RAC, *State Budget must address regional road trauma*, 31 August 2017, <<https://rac.com.au/about-rac/media/media-releases/august-2017/state-budget-must-address-regional-road-trauma>> (accessed 6 October 2017).

25 NRMA, *Funding local roads: Recommendations to clear the infrastructure backlog*, August 2017, <www.mynrma.com.au/-/media/documents/reports-and-sub/dcg-7365-local-road-funding-paper_final_low-res.pdf?la=en> (accessed 6 October 2017), p. 3.

Director, Ms Fiona Simson, called for state and federal governments to fast-track such funding.²⁶

1.30 Road trauma investment by the NSW and WA Governments contrasts markedly with the \$1 billion dollar package of road improvements, driver training programs and research announced by the Victorian Government in May 2016. The funding in Victoria is directed at cutting the number of road deaths to below 200 by the year 2020.²⁷

Committee view

1.31 The committee considers the matter of road trauma funding to be far too significant to be defined by regional difference.

1.32 During the course of this inquiry, it has become clear to the committee that all jurisdictions would benefit from discussions regarding road trauma funding initiatives, with a view to identifying best practice and maximising effectiveness. This is particularly critical in rural and regional areas of the country, where investment in road infrastructure will have the greatest impact on reducing road trauma. To this end, the committee recognises that the COAG TIC would be the most appropriate forum for discussion on road trauma funding initiatives.

Recommendation 1

1.33 The committee recommends that the Minister for Infrastructure and Transport initiate discussion on road trauma funding at the Council of Australian Governments Transport and Infrastructure Council (TIC) with a view to encouraging effective investment in road trauma funding across the nation.

Vehicle safety standards

1.34 The committee's interim report articulated the tangible connection between vehicle safety standards and road trauma.²⁸ With reference to the Australasian New Car Assessment Program (ANCAP) ratings, the committee heard that people 'are

26 'NRMA calls for plugging of road funding holes', *Sky News*, 24 August 2017, <<http://www.skynews.com.au/news/national/nsw/2017/08/24/nrma-calls-for-plugging-of-road-funding-holes.html>> (accessed 6 October 2017).

27 Premier of Victoria the Hon Daniel Andrew MP, 'Saving Lives – Victoria's New Road Safety Strategy', 15 May 2016, <<http://www.premier.vic.gov.au/saving-lives-victorias-new-road-safety-strategy/>> (accessed 6 October 2017).

28 Rural and Regional Affairs and Transport References Committee, *Aspects of road safety in Australia*, Interim report, May 2016, p. 28.

twice as likely to be killed or seriously injured in a one-star car versus a five star car'.²⁹

1.35 The committee was informed that ANCAP ratings would have a greater impact if displayed on vehicles at the point of sale, as consumers would have immediate access to vital safety information at the time of purchase.³⁰ The committee supported such an initiative, and recommended that the Australian Government work with state and territory governments to ensure that the display of ANCAP safety ratings is mandatory at the point of sale.³¹

1.36 It was also made clear to the committee that financial support for ANCAP was not guaranteed. For this reason, the committee recommended increased financial support to ANCAP.³² It also recommended continued funding of the Used Car Safety Ratings program maintained by the Monash University Accident Research Centre.³³ The committee endorses these recommendations.

1.37 On 10 February 2016, the government announced reform of the *Motor Vehicle Standards Act 1989*, with legislation to be introduced 'as soon as possible'.³⁴ Since then, DIRD reported that 'the Australian Government has conducted a number consultation sessions with key stakeholders'. In May and June 2017, for example, it held consultation sessions on an online Register of Approved Vehicles and new certification arrangements for light trailers.³⁵

1.38 The Minister for Urban Infrastructure, the Hon Paul Fletcher MP, announced on 16 August 2017, that the Government would introduce legislation 'this year' to implement the reforms by 2019.³⁶ The Minister also announced that the legislation would be introduced without the proposal 'to allow individuals to personally import

29 Mr William Golsby, General Manager, Corporate Affairs, RAC WA, *Committee Hansard*, 18 February 2016, p. 46.

30 RAC, *Submission 59*, p. 6.

31 Rural and Regional Affairs and Transport References Committee, *Aspects of road safety in Australia*, Interim report, May 2016, Recommendation 6, p. 31.

32 Rural and Regional Affairs and Transport References Committee, *Aspects of road safety in Australia*, Interim report, Recommendation 5, May 2016, p. 31.

33 Rural and Regional Affairs and Transport References Committee, *Aspects of road safety in Australia*, Interim report, May 2016, p. 31.

34 Department of Infrastructure and Regional Development, *Motor Vehicle Standards Act Reform*, February 2016, p. 2.

35 Department of Infrastructure and Regional Development, Reform of the *Motor Vehicles Standards Act 1989*, 22 August 2017, <https://infrastructure.gov.au/vehicles/mv_standards_act/> (accessed 6 October 2017).

36 The Hon Paul Fletcher MP, Minister for Urban Infrastructure, *New Road Vehicle Standards Act to Better Protect Consumers and Provide More Choice*, Media Release PF037/2017, 16 August 2017, <http://minister.infrastructure.gov.au/pf/releases/2017/August/pf037_2017.aspx> (accessed 6 October 2017).

new vehicles from countries with comparable vehicle standards to Australia'.³⁷ The committee welcomes this exclusion. In its interim report, the committee had raised concerns about the personal importation proposal, noting that 'the risks appear considerable and the benefits unclear'.³⁸

1.39 The committee notes with interest that the proposed reform to the *Motor Vehicle Standards Act 1989* are likely to:

- mirror safety recall provisions in Australian Consumer Law and apply them to road vehicles;
- require secure vehicle identification marking on new vehicles as a deterrent to motor vehicle theft for re-birthing; and
- improve pathways for importing specialist and enthusiast vehicles.³⁹

1.40 Noting the attention given by Minister Fletcher to consumer protection and choice, the committee urges a renewed focus on driver safety and the prevention of harm. While the committee acknowledges the importance of streamlining processes for consumers, it also considers that improving vehicle standards can have a positive impact on reducing the road toll. This view reflects the strong concerns expressed by submitters and witnesses to this inquiry.

Committee view

1.41 The committee awaits the detail of the legislative proposals to reform the *Motor Vehicle Standards Act 1989*. Without this detail, the committee has not been able to consider the merits of final policy proposals in either its interim or final report.

1.42 Nevertheless, the committee emphasises the importance of achieving national agreement on a sufficiently high level of vehicle safety standards. To this end, the committee urges the Australian Government to comprehensively deliver on this long awaited reform. The committee recognises that the Australian Government is in a position to provide a nationally consistent minimum safety standard for all vehicles. It must now take this opportunity to ensure that vehicles on our roads are safer for all Australians.

37 Department of Infrastructure and Regional Development, Reform of the *Motor Vehicles Standards Act 1989*, 22 August 2017, <https://infrastructure.gov.au/vehicles/mv_standards_act/> (accessed 6 October 2017).

38 Rural and Regional Affairs and Transport References Committee, *Aspects of road safety in Australia*, Interim report, May 2016, p. 36.

39 Department of Infrastructure and Regional Development, Reform of the *Motor Vehicles Standards Act 1989*, 22 August 2017, <https://infrastructure.gov.au/vehicles/mv_standards_act/> (accessed 6 October 2017).

Recommendation 2

1.43 The committee recommends that the Australian Government commit to a robust set of national minimum safety standards for all vehicles, including second hand vehicles and the government fleet, as part of its proposed reform of the *Motor Vehicle Standards Act 1989*.

Importing safety technology – Australian Design Rules

1.44 The committee's attention was drawn to evidence that the United Kingdom, the United States and Europe mandate or maintain high levels of technology in imported cars, but that such technology does not feature in the cars imported to Australia. In fact, many imported vehicles sold in Australia are not equipped with the new technology which would be a standard feature of these vehicles if sold elsewhere (including Europe or the United States).

1.45 Mr Mark Jackman, Regional President, Chassis Systems Control, Robert Bosch Australia informed the committee that:

There are models being sold in Australia whose equivalent models in other parts of the world have a feature that is not even available here. Manufacturers will tell you that it is about supply and demand: if we have the demand, we would then be able to increase the value of the car or show that it is worth while adding that in. I think we as a consumer group in Australia do not understand the technologies. And when we do not understand them we are very reliant on the contacts that we have with the sales people, with the internet reports and hopefully with the road safety agencies. They are the ones from whom we get this educational information. With that demand comes the car manufacturers' requirement, from a marketing point of view, to include those features.⁴⁰

1.46 The committee accepts the overwhelming evidence which indicates that incorporating new technology into our vehicles would contribute to road safety. While some witnesses suggested that competition was the most appropriate means to increase access to new safety technology, a considerable amount of evidence upheld the view that the Australian Design Rules (ADRs) were the most efficient mechanism to achieve this. The ADRs include requirements for 'vehicle safety, environmental performance and anti-theft protection'.⁴¹

1.47 A number of submitters highlighted the value of ADRs to road safety. However, concerns were raised that ADRs do not cover all classes of vehicles, which can lead to time lag across classes, as features are progressively adopted. Evidence to the committee focused on this time lag between the development of new technology and updates to the ADRs.⁴² For this reason, many witnesses and submitters to the

40 Mr Mark Jackman, Robert Bosch Australia, *Committee Hansard*, 3 July 2015, p. 3.

41 Department of Infrastructure and Regional Development, *Submission 51*, p. 6.

42 Monash University Accident Research Centre, *Submission 67*, p. 24;

inquiry pointed to the need to address the slow legislative progress with regard to ADRs. Many called for an exploration of methods to introduce ADRs in a timely manner to encourage the take up of new safety technology and to ensure that Australia keeps pace with international developments.⁴³

Committee view

1.48 The committee recognises the importance of safety technology on our roads. Technological advancements such as lane departure warning systems and fatigue monitoring have been proven to assist drivers in remaining more alert – thereby protecting Australian road users.

1.49 The committee endorses the recommendation it made in its interim report with regard to immediate amendment of the ADR, which would require all new light vehicles sold in Australia to be fitted with automatic emergency braking technology.⁴⁴

1.50 Furthermore, the committee encourages the Australian Government to explore methods to introduce ADRs in a timely manner, to ensure that all Australians can benefit from new vehicle safety technology, and remain safe on our roads.

Recommendation 3

1.51 The committee recommends that the Australian Government explore methods to introduce Australian Design Rules (ADRs) in a timely manner to ensure that Australia benefits from, and keeps pace with, international developments in vehicle safety technology.

43 Mr Mark Jackman, Robert Bosch Australia, Committee Hansard, 3 July 2015, p. 4; ARRB Group, *Submission 26*, p. 4.

44 Rural and Regional Affairs and Transport References Committee, *Aspects of road safety in Australia*, Interim report, Recommendation 8, May 2016, p. 34.

Chapter 2

Overseas drivers

2.1 This chapter examines the evidence before the committee in relation to heavy vehicles. In particular, it considers drivers of heavy vehicles who are given licences, but do not have the skills required to drive safely on Australia's roads.

Incident on M5 freeway

2.2 In its interim report, the committee expressed alarm at evidence regarding licenced individuals employed to drive heavy vehicles, who do not have the basic skills necessary to perform the task. It became overwhelmingly clear to the committee that such individuals pose a considerable danger to other road users.

2.3 The committee's inquiry was shaped by knowledge of a major traffic incident on the M5 freeway in Sydney on 5 February 2016. The incident involved a team of two drivers who stopped at the entrance of the M5 tunnel because of the low clearance restriction but were subsequently unable to reverse or decouple the B-double heavy vehicle. The driver partially jack-knifed the vehicle across the highway when attempted to reverse it, thereby bringing traffic to a standstill.¹

2.4 The incident highlighted a number of structural and economic problems in the transport industry and beyond, including the rights and responsibilities of overseas drivers, malpractice by heavy vehicle trainers and the need for a safety-based drivers' licence regime for visa holders in Australia.

2.5 As a result of this event, the committee continued its comprehensive fact-finding exercise over a number of public hearings and in correspondence with state and federal government departments. The level of responsiveness to the committee's inquiries shown by state and federal institutions varied greatly. Overall, the committee was disappointed by the lack of dialogue between jurisdictions, which reflected a lack of commitment to address these safety concerns, in a proactive and coordinated manner.

2.6 The committee's key findings in relation to the M5 incident are set out in this chapter. These findings have wide-ranging implications for industry and government.

The incident

2.7 The state government authority responsible for driver licensing and road safety in NSW is the Roads and Maritime Services (RMS). RMS provided the following account of the M5 incident to the committee:

1 Mr Mike Stapleton, Department of Transport and Main Roads, Queensland, *Committee Hansard*, 22 March 2016, p. 59.

On 5 February 2016, an over-height B Double combination stopped northbound in lane 4 of the M5 incident Motorway (General Holmes Drive, Kyeemagh). The incident was attended by representatives from RMS, including a number of Inspector Enforcement Officers (IEOs), Traffic Emergency Patrol Staff (TEPS), and NSW Police.

The heavy vehicle was found to be over-height measuring in at 4.6 metres. The driver had stopped before the M5 East Tunnel (which has a 4.4 metre low clearance restriction). While the driver held a Queensland heavy vehicle licence, he was unable to reverse the vehicle to a point where the heavy vehicle could be moved off the Motorway. A TEPS crew member reversed the vehicle to relieve the traffic congestion and allow an investigation to take place.

The vehicle, driver and support driver were escorted by Police and TEPS to General Holmes Drive. It was found that the drivers were working in a "2 Up" arrangement, allowing them to share the driving. Operators use "2 Up" arrangements on [a] long distance trips, reducing the time the vehicle is stopped for rest breaks. It allows the vehicle to be driven almost continuously without a breach of the fatigue management laws.²

2.8 The committee asked questions of RMS about the driver's ability to drive the truck away from the scene, given his apparent lack of control of the vehicle. In response, the committee heard that the only lawful method of preventing the driver from leaving the scene would have required police intervention as:

The NSW Police Force was responsible for the driver and the scene. In order to prevent the driver from leaving, Police would have needed a lawful power to detain the driver, and would have needed to demonstrate that use of the power was justifiable and necessary.³

2.9 RMS advised that in NSW, 'Police may suspend (but not cancel) licences on the spot, but only for offences such as serious drink driving or high level speeding' and that '[s]erious consideration and consultation would need to be carried out to develop a policy on assessment and lawful on-the-spot revoking of a driver licence'.⁴

2.10 Based on advice from RMS received on 28 February 2017, the committee held a further public hearing in Sydney and invited the NSW Police Force to give evidence. The NSW Police Force declined the committee's invitation, and responded by indicating that Transport for NSW is the lead agency on road safety policy and legislation in that state. Transport for NSW also declined the invitation, stating that there was no additional information it could provide the committee.

2 Roads and Maritime Services (NSW), additional information, 8 July 2017, p. 1.

3 Roads and Maritime Services (NSW), answers to additional questions on notice, 28 February 2017 (received 24 March 2017), p. [1].

4 Roads and Maritime Services (NSW), answers to additional questions on notice, 28 February 2017 (received 24 March 2017), p. [2].

The drivers

2.11 The Department of Immigration and Border Protection confirmed in response to the committee's questioning in March 2016 that the driver of the heavy vehicle was a foreign national and in Australia on a student visa.⁵

2.12 The second driver was confirmed to be 'the holder of a dependent 457 visa, which means his partner was the primary 457 visa holder'. The dependent visa holder was 'not under the same obligations, as far as work goes, as the partner, who would be restricted to the occupation that they were sponsored to work in'.⁶

2.13 The Queensland Department of Transport and Main Roads confirmed that the first driver, an Indian national, had been awarded a licence to drive heavy vehicles in Queensland.⁷ As there is no reciprocal arrangement between Australia and India given that 'India is not an Austroads approved country', the driver had to undertake tests to obtain his licence. Mr Mike Stapleton, Acting Director-General, Customer Services, Safety and Regulation at the Queensland department outlined the steps that those from non-recognised countries, including India, would ordinarily undertake to progress to a heavy vehicle licence in Australia:

An Indian licence holder wanting to transfer, for example, an Indian licence that corresponds to a Queensland heavy-rigid HR licence would need to pass both a written road rules test and a Queensland practical driving test in a class HR vehicle. However, we would also recognise a class HR training course delivered by a recognised registered training organisation in a jurisdiction that has adopted the National Heavy Vehicle Driver Competency Framework, which is the national framework, in lieu of a Queensland practical driving test. Both New South Wales and Victoria have adopted these schemes in recent years.⁸

2.14 The Queensland department outlined the driver's progression from having a car licence granted, after sitting written and practical tests, to being granted heavy vehicle licences based on certificates awarded by a Registered Training Organisation (RTO) known as 'ACT Training'. Mr Stapleton explained that:

He had a Queensland class C licence already. He has actually gone to Tweed Heads, undertaken the training and assessment, got a certificate, come back into Queensland and, along with the other drivers, has basically submitted that certificate to get an upgrade of his licence to heavy rigid. And then, about four or five months later, he has then gone and undertaken

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

6 Mr Robin Gray, Australian Border Force, *Committee Hansard*, 10 November 2016, pp. 15–16.

7 Mr Mike Stapleton, Department of Transport and Main Roads, Queensland, *Committee Hansard*, 22 March 2016, p. 59.

8 Mr Mike Stapleton, Department of Transport and Main Roads, Queensland, *Committee Hansard*, 22 March 2016, p. 58.

more training with the same provider at their Jimboomba Queensland office, and brought that in. And also, when he has actually got the certificate, he has come in and upgraded to multicomination.⁹

2.15 The committee heard that the requirement for the driver to hold a car licence in Queensland for a number of years before upgrading to a heavy vehicle licence could be waived in this instance because:

He had a licence in another country for an equivalent class to the heavy rigid. He actually was able to produce documentation and licences with cancellations to indicate that he had held a licence at that level.¹⁰

Outcome

2.16 As a result of the 5 February 2016 incident, the driver lost six demerit points, and was 'fined the prescribed amount for each offence (\$630 and \$2,196)'.¹¹ RMS confirmed that it 'withdrew visiting privileges [into NSW] to the maximum we could in respect of the driver and of the units'.¹² This equated to a '3 month suspension of visiting driver privileges on the driver, banning him from driving in NSW for 3 months'.

2.17 The Department of Immigration and Border Protection later advised the committee that, after conducting a further investigation, the driver's visa was 'cancelled, and he was subsequently removed from Australia'.¹³

2.18 With regard to visa holders, the committee made the following recommendation (Recommendation 16) in its interim report of May 2016, to which the government is yet to respond:

The committee recommends that all visa holders undergo driver skill tests before their heavy vehicle driving licences are recognised in Australia.¹⁴

Trainer and assessor

2.19 The committee was able to confirm that an RTO known as 'ACT Training' granted the competency certificates that allowed the M5 drivers to gain heavy vehicle

9 Mr Mike Stapleton, Department of Transport and Main Roads, Queensland, *Committee Hansard*, 22 March 2016, p.63.

10 Mr Mike Stapleton, Department of Transport and Main Roads, Queensland, *Committee Hansard*, 22 March 2016, p.61.

11 Roads and Maritime Services (NSW), answers to questions on notice, 28 February 2017 (received 24 March 2017), p. [2].

12 Ms Melinda Bailey, Roads and Maritime Services, New South Wales, *Committee Hansard*, 15 February 2017, p. 6.

13 Ms Erin Dale, Australian Border Force, *Committee Hansard*, 10 November 2016, p. 15.

14 Rural and Regional Affairs and Transport Committee, *Aspects of road safety in Australia*, Interim report, May 2016, p. viii.

licences in Queensland. It was also made clear that the Queensland Government had taken action since the incident to investigate a number of drivers who had been trained by the same organisation. Mr Stapleton of the Queensland department gave evidence that:

The investigation by Transport and Main Roads determined that the company, which has facilities in New South Wales and Queensland, may have been providing incomplete training and assessment for multicomination licences. The Australian Skills Quality Authority, which is responsible for the auditing of registered training organisations, have also investigated this issue.¹⁵

2.20 RMS confirmed that its own investigation, '[b]ased on the driver's inability to reverse the vehicle at the scene'¹⁶ revealed problems with the training and assessment of the driver in NSW. RMS provided further detail at a public hearing:

...investigations that we undertook identified that the driver in question had been assessed by an assessor under the New South Wales Heavy Vehicle Competency Based Assessment Scheme. When we investigated, we identified that there was no evidence that the assessor had actually undertaken the assessment to demonstrate that that applicant had the competency required.

...what we identified was that the assessor had exploited a loophole that existed in our online reporting system at the time and that prevented us from identifying whether the training competencies required had been completed.

...the loophole that was exploited was because that assessor held a Queensland licence she was unable to record the assessment within our online reporting system at the time. We have since closed that loop so that cannot occur again. But it meant RMS had no visibility of the assessments that she was undertaking—she was required to manually make the bookings and report the results—and that had not been undertaken.¹⁷

2.21 The committee heard that following changes to the online reporting system, it would no longer be possible for the assessor in question to avoid scrutiny from RMS. Ms Melinda Bailey, Executive Director of Compliance and Regulatory Services at RMS, explained that:

If they are coming into the New South Wales HVCBA scheme, it does not matter where the assessor's licence is. As long as it is an Australian licence,

15 Mr Mike Stapleton, Department of Transport and Main Roads, *Committee Hansard*, 10 November 2016, p. 7.

16 Roads and Maritime Services (NSW), answers to additional questions on notice, 28 February 2017 (received 24 March 2017), p. [1].

17 Ms Melinda Bailey, Roads and Maritime Services, New South Wales, *Committee Hansard*, 15 February 2017, pp. 3–4.

it can be managed and captured through the online reporting system. That will prevent this from happening again.¹⁸

Outcome

2.22 The committee was informed that only a third of drivers who had received certificates of competency by ACT training passed a practical test that allowed them to continue driving heavy rigid (HR) vehicles:

The outcome of this investigation was 114 licence holders being shown cause as to why their licence should not be downgraded and the assessor involved at the Queensland registered training organisation being initially suspended for 12 months. Of the 114 licence holders, 80 had been downgraded, 17 failed a retest, 63 were voluntary downgrades and 34 passed a heavy rigid practical test.¹⁹

2.23 The committee heard that the individual assessor from ACT Training is no longer 'in the system', as their 'licence was revoked in November 2015 and their New South Wales driver's instructor licence a month later'.²⁰

2.24 Mr Stapleton further clarified that while the assessor was suspended for 12 months and would be able to reapply, the Queensland department 'would be taking into account their previous history and what had transpired in making that assessment'.²¹

2.25 The systemic abuse of the training system is discussed further in Chapter 4, as a number of witnesses shared the committee's concern that some trainers and assessors are not operating in the best interests of the industry. For example, when asked how a driver could 'go for assessment for an articulated heavy vehicle licence, clearly without the competency to even back up a B-double or uncouple a B-double', Mr Tony Richens, a heavy vehicle trainer and assessor, commented 'I would say that was done by somebody who was unscrupulous'.²²

18 Ms Melinda Bailey, Roads and Maritime Services, New South Wales, *Committee Hansard*, 15 February 2017, p. 4.

19 Mr Mike Stapleton, Department of Transport and Main Roads, *Committee Hansard*, 10 November 2016, p. 7.

20 Ms Melinda Bailey, Roads and Maritime Services, New South Wales, *Committee Hansard*, 15 February 2017, p. 4.

21 Mr Mike Stapleton, Department of Transport and Main Roads, *Committee Hansard*, 10 November 2016, p. 8.

22 Mr Tony Richens, *Committee Hansard*, 26 June 2017, p. 7.

Compliance actions: training and assessment

2.26 After establishing the facts of the M5 incident, the committee was keen to ensure that the actions of ACT Training had come under appropriate scrutiny in both NSW and Queensland.

2.27 The committee was informed that as at February 2017, RMS had undertaken an investigation and 'two follow-up audits' of ACT Training, with the result that 'they were issued with a caution in respect of their oversight of that assessor'. RMS notified the committee that it had also 'strengthened the accreditation agreement to make sure that these oversight expectations are much clearer going forward'.²³

2.28 In response to questioning about whether RMS had reported the incident to the Australian Skills Quality Authority (ASQA), responsible for regulating RTOs, Ms Bailey of RMS told the committee that she was not aware of whether RMS reported it to ASQA. She further clarified that at 'that stage last year when that incident happened in February 2016, the assessor had already been terminated from the scheme'.²⁴

2.29 Across the border in Queensland, ACT Training came under further scrutiny from the Department of Transport and Main Roads (TMR), who referred the case to ASQA. Mr Stapleton, told the committee that:

Two actions happened. The first action was we, as TMR, went and audited the trainer assessors that were at that facility—the particular individual who worked there and at Tweed Heads, which is the extent of our ability to audit, because we audit the trainer assessors. As we mentioned before, ASQA did an audit of the RTO. They found some minor discrepancies, and the RTO have worked with them to rectify those discrepancies. ASQA have written to us to advise us that those issues have been resolved.²⁵

2.30 The committee has ongoing concerns about the level of scrutiny that is applied to heavy vehicle driving assessments conducted by RTOs. Mr Tony Sheldon, National Secretary of the Transport Workers' Union (TWU) gave evidence that the committee's inquiry following the M5 incident had:

...shone a light on fraud and how easy it is for people to obtain licences to drive vehicles in this country. That is of course if they know the right places to go to, which, in this case, are the wrong places to be trained.²⁶

23 Ms Melinda Bailey, Roads and Maritime Services, New South Wales, *Committee Hansard*, 15 February 2017, p. 4.

24 Ms Melinda Bailey, Roads and Maritime Services, New South Wales, *Committee Hansard*, 15 February 2017, p. 6.

25 Mr Mike Stapleton, Department of Transport and Main Roads, *Committee Hansard*, 10 November 2016, p. 10.

26 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 12.

2.31 Accordingly, issues surrounding heavy vehicle training and compliance, including ASQA's scrutiny role, is discussed further in Chapter 4.

Employer

2.32 The committee heard evidence from Scott's Transport, the reported operators of the vehicle involved in the incident on the M5 Freeway. Scott's Transport stated that the incident was a breach of contract obligations by subcontractor SPS Transport Pty Ltd:

The driver who was involved in the incident that occurred on the M5 Freeway in Sydney on 5 February 2016 was engaged by SPS Transport Pty Ltd to tow Scotts Transport Industries trailers pursuant to terms and conditions set out in the Scotts Transport Industries Sub-contractor Agreement. The driver was required to transport freight from Petrie in Queensland to Botany in New South Wales.

The driver was provided with a Safe Journey Plan by Scotts Transport Industries and did not comply with that Plan as he was travelling "off route" when the incident occurred.

As a consequence, SPS [Dhaliwal] Pty Ltd was in breach of its obligations to Scotts Transport Industries.²⁷

2.33 Mr Darren Williams, Chief Executive Officer of Scott's Transport, provided evidence that, as well as ending a number of subcontracting relationships (including with SPS) the company had made adjustments to its subcontracting arrangements, such as testing drivers in-house. Mr Williams further explained that:

We also have a process in place where we—I would have to be frank and say we lost confidence in the licensing system. We went through and made it a part of the engagement of drivers that they had been driving for a year. We also wanted them to submit to having been to an RTO, which definitely concerns me from what you have just said about the Tweed Heads thing. On top of that, we decided that rather than trust that we would put any new drivers through testing of our own prior to working for any of the accredited subcontractors.²⁸

2.34 In-house testing conducted by Scott's Transport revealed that one in ten drivers lacked key skills in heavy vehicle driving. The Safety and Compliance Manager at Scott's, Mr Phillip Forster elaborated:

We are giving them a coupling and no-coupling test, and we are making them back their B-doubles 30 metres in a straight line. In the time frame we have been doing it, we are finding that about 10 per cent of the drivers we are testing cannot do it.²⁹

27 Scott's Transport Industries Pty Ltd, *Submission 77*, p. 1.

28 Mr Darren Williams, Scott's Transport Industries, *Committee Hansard*, 22 March 2016, p. 69.

29 Mr Phillip Forster, Scott's Transport Industries, *Committee Hansard*, 22 March 2016, p. 69.

Outcome

2.35 The committee noted the commitment of Scott's Transport to do 'everything that we can to weed these guys out of our system', including requiring subcontractors to give notification if any of their drivers are on visas.³⁰

2.36 The Department of Immigration and Border Protection confirmed that further actions were taken to ensure that the employer was aware of visa verification services:

The department liaised with Scott's Transport and SPS Dhaliwal Pty Ltd, the businesses associated with the truck driver, to build awareness of the requirements and to encourage them to access the department's free visa entitlement verification online service, which allows employers to check work entitlements of prospective employees. I can confirm that both Scott's Transport and SPS Dhaliwal Pty Ltd have subscribed to this service.³¹

Visa system

2.37 The committee has urged the Department of Immigration and Border Protection to launch an urgent investigation into the misuse of student visas to employ people in the transport industry.³² The committee's interim report noted that truck driving is not a permissible occupation on the consolidated sponsored occupations list for the temporary work (skilled) visa (subclass 457) program.³³

2.38 The committee was notified by the Department of Immigration and Border Protection on 14 April 2016 that:

The Department is currently undertaking investigative activity in regards to misuse of the student visa program targeting employers, education providers and other facilitators of breaches under the *Migration Act (1958)* and associated regulations.³⁴

2.39 The point was also made, however, that '[a]t any given time we have, approximately, between 350,000 to 400,000 students studying in Australia' which is '30 per cent...of the total number of temporary visa holders in Australia'.³⁵

30 Mr Darren Williams, Scott's Transport Industries, *Committee Hansard*, 22 March 2016, p. 71.

31 Ms Erin Dale, Australian Border Force, *Committee Hansard*, 10 November 2016, p. 15.

32 Rural and Regional Affairs and Transport References Committee, *Aspects of road safety in Australia*, Interim report, May 2016, pp. 56–57.

33 Mr Jim Williams, Department of Immigration and Border Protection, *Committee Hansard*, 22 March 2016, p. 16.

34 Ms Christine Dacey, Department of Immigration and Border Protection, correspondence received 14 April 2016.

35 Mr Greg Martin, Department of Immigration and Border Protection, *Committee Hansard*, 10 November 2016, p. 16.

2.40 In the absence of further correspondence from the Department of Immigration and Border Protection, the committee remains concerned that a number of underqualified drivers may be in Australia on temporary visas.

2.41 Mr Sheldon, National Secretary of the TWU, characterised the M5 incident as a case of the drivers being 'exploited' and put at risk in 'the most dangerous industry in the country':³⁶

In this example these two drivers were unskilled and inappropriately put behind a wheel, and I certainly greatly expect that they were being exploited. Obviously, they were put at heavy risk, as every other road user was. This is a cocktail in an industry that has 40 per cent of all road transport related deaths, which is highly sweated, on extremely low margins and at the beck and call of some of the most powerful clients in this country.³⁷

2.42 The TWU drew attention to the systemic nature of the problem, describing it as 'ludicrous' that we 'are expecting exploited workers from overseas—under the fear of either being deported or caught out in breaches of the arrangements—to somehow turn around and stand up against these sorts of economic pressures'.³⁸ Mr Sheldon described the incident as 'a snapshot of the race to the bottom of the trucking industry'.³⁹

Committee view

2.43 The findings of this investigation raise serious concerns about the safety of the Australian travelling public which must be examined by both state and federal authorities. Weaknesses and loopholes in the visa system continue to allow its beneficiaries to exploit or be exploited by unscrupulous operators in the transport industry, at the expense of safety, while also undermining the reputation and professionalism of Australia's transport industry. The committee is not yet convinced that relevant policy settings and integrity measures have been adequately adjusted in response to the committee's concerns about fraud in the visa caseload.

2.44 These issues are systemic in nature and must be addressed accordingly. Toward the end of its inquiry, the committee received further evidence that the M5 incident was not the only instance where companies have used the visa system to cut costs in the transport industry. The committee was notified at its public hearing on

36 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 15.

37 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 14.

38 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 15.

39 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 12.

26 June 2017, of an application by transport company Northline Pty Ltd for a labour agreement to bring 60 overseas forklift drivers into Australia on 457 visas.⁴⁰

2.45 The TWU expressed concern about Northline engaging forklift drivers on 457 visas, particularly given that 'the company had not tried very hard to recruit forklift drivers locally' and that in any instance, '[t]raining to become a forklift driver just takes two days'.⁴¹ It was Mr Sheldon's view that:

Northline had not tried to recruit [local] forklift drivers and there were no specific skills that they were seeking. Northline just wanted a labour agreement to bring in overseas workers so, I would argue, they could pay them less.⁴²

2.46 Northline provided a response to the committee that:

The forklift operators that have come to Australia as part of Temporary Work (Skilled) Subclass 457 visa programme are skilled forklift operators who are already trained in how to load unpalletised general freight, which is our core business. These employees are "skills assessed" before any offer of employment is made. The employees are required to attend a recognised training facility in Australia for the sole purpose of gaining an Australian forklift licence. The skills required to load unpalletised general freight is rarely achieved by attending a two-day forklift training course.⁴³

2.47 When questioned at a public hearing in 29 August 2017, the Department of Immigration and Border Protection advised the committee that while Northline had made an application, 'no labour agreement has been entered into'.⁴⁴ Northline's response, however, suggests to the committee that earlier applications may have met with more success. Indeed, according to Mr Sheldon, this instance was the third labour agreement that Northline had sought in order to bring low-skilled forklift drivers into the country. He suggested that one such agreement had been granted, and 16 overseas forklift drivers had been brought in.⁴⁵

2.48 While an unfavourable outcome may have been prevented in Northline's most recent application, the committee is concerned that some companies in the transport

40 Mr Tony Sheldon, National Secretary, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 12.

41 Mr Tony Sheldon, National Secretary, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 12.

42 Mr Tony Sheldon, National Secretary, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 12.

43 Additional information provided by Northline Pty Ltd, 31 July 2017, p. 2.

44 Ms Christine Dacey, Department of Immigration and Border Protection, *Committee Hansard*, 29 August 2017, p. 13.

45 Mr Tony Sheldon, National Secretary, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 12.

industry continue to see labour agreements as a valid alternative to recruiting and training Australian workers.

Committee view

2.49 The committee acknowledges that combating visa fraud, illegal work and the exploitation of foreign workers in the transport industry is a large and multi-faceted task. The committee appreciates that cross-jurisdictional efforts are currently underway across government to identify and eliminate the exploitation of foreign workers. It also encourages the Department of Immigration and Border Protection to keep it informed of progress with regard to the ongoing operations of Taskforce Cadena.

2.50 Further, the committee intends to closely follow the outcomes of the cross-agency Migrant Workers' Taskforce. The Taskforce is required to consider 'particular industries or groups of vulnerable migrant workers where there are systemic problems with exploitation and underpayment'.⁴⁶

2.51 While acknowledging the many legitimate operators who are doing the right thing by their employees, the committee sees the potential for road transport to join those industries in which exploitation and underpayment are rife. Accordingly, the committee considers that the visa issues in the transport industry must be considered by the Migrant Workers' Taskforce or examined separately by the Department of Immigration and Border Protection.

Recommendation 4

2.52 The committee recommends that, if not adequately addressed through the recommendations of the Migrant Workers' Taskforce, the Department of Immigration and Border Protection comprehensively review visa arrangements to address systematic or organised abuse in the transport industry.

Overseas drivers' licence recognition

2.53 In view of calls for greater standardisation of driver licensing around the country,⁴⁷ the committee has given further consideration to the issue of overseas drivers automatically being granted heavy vehicle licences in Australia.

2.54 In its interim report, the committee expressed concern at the ease by which overseas drivers can get behind the wheel of the largest and most dangerous vehicles in Australia. In most states and territories, temporary overseas visitors may drive all

46 Department of Employment, Minister's Media Centre, *Migrant Workers Taskforce*, <https://ministers.employment.gov.au/sites/mmc_employment/files/documents/161003_migrant_worker_taskforce_-_terms_of_reference.pdf> (accessed 6 September 2017), p. 1.

47 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 6; Mr Stephen Lee, *Submission 81*, pp. 3–4.

classes of vehicles that their overseas licence authorises, including heavy vehicles.⁴⁸ This means that a number of overseas drivers do not apply for Australian licence equivalents and are not subject to driver skill or knowledge tests. Accordingly, the committee again recommends that all visa holders undergo driver skill tests in Australia before their heavy vehicle drivers' licences are recognised.

Recommendation 5

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

2.56 The committee urges the Australian Government to work with its state and territory counterparts through the TIC to give effect to this recommendation. As a first step, the committee encourages consideration of the Australian Trucking Association (ATA) recommendation that the use of all overseas drivers' licences in Australia be capped at a year. In the ATA's view, this would be consistent with Australia's international obligations:

...our view is that the use of an overseas drivers licence in Australia, as opposed to someone from overseas getting an Australian licence, should be capped at a year. This is consistent with our treaty obligations under the 1949 convention on road traffic. Secondly, the states where there is still a loophole enabling someone to attempt an Australian driving test, fail and then continue driving on an overseas licence needs to be closed.⁴⁹

2.57 The committee noted with interest the ATA's view that Australia's obligations under the 1949 Convention on Road Traffic are directed to the carriage of passengers by overseas drivers rather than driving for commercial activities.⁵⁰

2.58 In its interim report, the committee further identified a loophole that allows overseas drivers to drive unassessed in Australia and, in some cases, even to retain their driving privileges after failing Australian tests. Mr Bill McKinley, Chief of Staff, ATA, explained how this can occur:

...in South Australia, Western Australia and the Northern Territory, if you are driving on a foreign licence—say, you are in Australia on a UK licence—and you undertake an Australian driving test for whatever reason and fail, you can then walk out of the failed driving test, get back into your car and drive off again on your overseas licence.⁵¹

48 Australian Trucking Association, *Supplementary Submission 38.2*, p. 1.

49 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 6.

50 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 7.

51 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 6.

Committee view

2.59 The committee accepts the evidence that driving on Australian roads requires knowledge of a unique set of conditions, and that few overseas drivers would be equipped with this knowledge.⁵²

2.60 To provide overseas drivers with the best chances of success on our roads, the committee recommends that all jurisdictions adopt a consistent approach to licensing. In particular, where a driver with an overseas licence does not pass an Australian driving test, the committee is of the view that their ability to continue driving on our roads should be immediately curtailed.

2.61 Longer term, the committee considers that jurisdictions should investigate a solution that would consistently limit the amount of time that overseas drivers are able to rely on their overseas licence in place of an Australian equivalent. This could be achieved in a way that is consistent with Australia's treaty obligations. A uniform, term-limited approach would discourage the use of overseas licences for commercial driving activities, and strengthen the engagement of all overseas drivers with Australian standards of road safety.

Recommendation 6

2.62 The committee recommends that legislation in South Australia, Western Australia and Northern Territory be amended (consistent with other state and territory jurisdictions) to ensure that overseas drivers who fail a driving test are no longer allowed to use their overseas licence to drive in Australia.

52 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 22 March 2016, p. 37; Toll Group, *Submission 33*, p 7.

Chapter 3

Heavy vehicle transport: state of the industry

3.1 In the previous chapter, the committee examined the roles of driver, employer, trainer, assessor and state and federal government agencies in the context of a heavy vehicle incident on the M5 Freeway. This exercise sharpened the committee's focus on structural problems that threaten the safety and economic viability of the road transport industry.

3.2 In this chapter, the committee discusses the key issues which indicate that all sectors of the industry may not be thriving including: a high road toll from truck crashes, a shortage of skilled drivers and adverse safety outcomes arising from continued economic pressure.

3.3 Evidence to the inquiry highlighted the need to find economic solutions for the industry. In particular, attention was drawn to the need to accelerate the progress of reform by way of updating the chain of responsibility laws, mandating the use of electronic work diaries and instituting 30 day minimum payment terms. This chapter considers these reforms.

An industry in crisis

Road toll increases

3.4 The committee heard startling evidence which indicated that the road toll from truck crashes is at a record high level and is continuing to increase.¹ According to the TWU, in the 10 years to 2014, over 2500 people died in truck crashes on Australia's roads. The committee shares the view of submitters that 'this is not a statistic that should prompt any government to stand idly by'.²

3.5 The committee was not surprised to hear that heavy vehicles are 'over-represented in road crash fatalities and injuries' and that 'hospital admissions and injuries are trending upwards'.³ Toll Group told the committee that approximately '350 truck rollovers are reported each year in Australia'.⁴ As the TWU remarked, 'no other industry injures 5350 people per year at the rate of 31 per day'.⁵

1 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 13.

2 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 13.

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

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

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

3.6 The difficulty of attracting and retaining skilled heavy vehicle drivers was repeatedly raised in evidence to this inquiry. This evidence is unsurprising when weighed against the statistics on fatalities. In 2016 'over one in three workplace deaths involved transport workers, with 64 deaths out of the total of 178'.⁶ Indeed, Safe Work data indicates that of the 100 people who died at work between 1 January 2017 and 20 July 2017, 42 were employed in the transport, postal and warehousing industry.⁷

3.7 Furthermore, recent data from the Bureau of Infrastructure, Transport and Regional Economics (BITRE) demonstrates a steady increase in fatal crashes involving heavy vehicles:

Fatal crashes involving articulated trucks in the last year have increased by 7.2 per cent compared with the previous year, an increase by an average of 0.9 per cent per year over the three years to March 2017. Fatal crashes involving heavy rigid trucks have increased by 4.1 per cent compared with the previous year, an increase by an average of 2.5 per cent per year over the three years to March 2017.⁸

3.8 During the 12 months to the end of March 2017, 205 people died in 181 crashes involving articulated or heavy rigid trucks. This is a higher fatality rate than that over the previous 12 months when 185 people died in 170 crashes, as shown on the graph that follows.⁹

6 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 13.

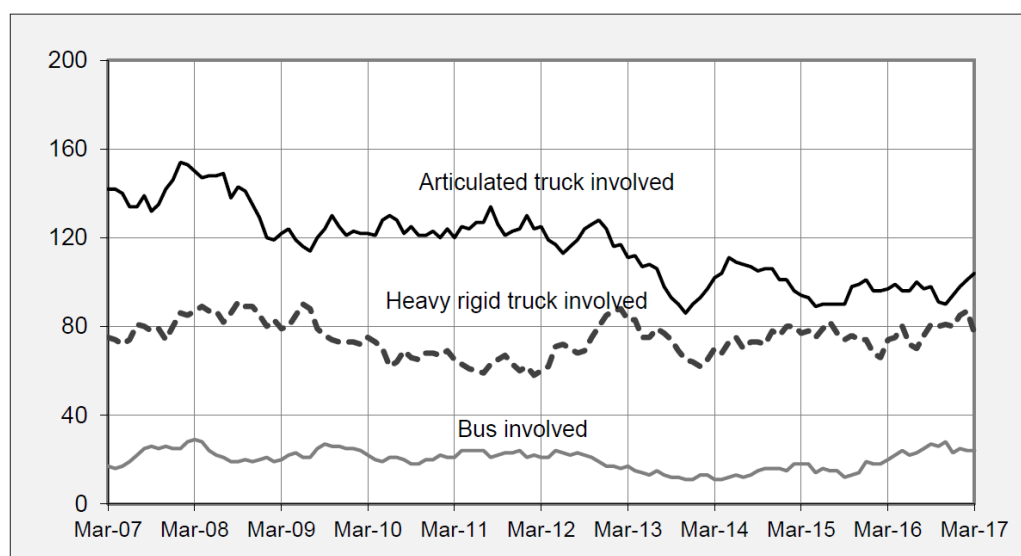
7 Safe Work Australia, *Fatality statistics*, 20 July 2017, <<https://www.safeworkaustralia.gov.au/statistics-and-research/statistics/fatalities/fatality-statistics#year-to-date-2017-preliminary-worker>> (accessed 25 July 2017).

8 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 13. See also Department of Infrastructure and Regional Development (BITRE), *Fatal Heavy Vehicle Crashes Australia –Quarterly Bulletins*, May 2017, <https://bitre.gov.au/publications/ongoing/fatal_heavy_vehicle_crashes_quarterly.aspx> (accessed 25 July 2017).

9 Department of Infrastructure and Regional Development (BITRE), *Fatal Heavy Vehicle Crashes Australia quarterly bulletin*, Jan–Mar 2017, <https://bitre.gov.au/publications/ongoing/fhvc/files/Bulletin_Mar_2017.pdf> (accessed 25 July 2017).

Fatal crashes involving heavy vehicles, Australia — moving annual total

(Each point shows the number of fatal crashes during the preceding 12 months)



Source: Department of Infrastructure and Regional Development, *Fatal heavy vehicle crashes Australia quarterly bulletin*, Jan–Mar 2017, https://bitre.gov.au/publications/ongoing/fhvc/files/Bulletin_Mar_2017.pdf.

3.9 While considering the issue of heavy vehicle driver training at length in Chapter 4, the committee is mindful that other road users have a role to play in reducing the heavy vehicle road toll. Heavy vehicle trainer and assessor, Mr Tony Richens, provided evidence that 'in accidents involving heavy vehicles, 80 per cent of the fault lies with the other vehicle in the accident'.¹⁰ He gave examples of unsafe practices by light vehicle drivers in their interaction with heavy vehicles:

You need only to travel in a heavy vehicle on a public road to see that the majority of car drivers have no understanding of the room required by heavy vehicles to stop, turn or travel through roundabouts and they certainly have no awareness of the vision limitations from the cab of the vehicle¹¹

3.10 To improve the awareness of other road users, Road Freight NSW recommended 'a working committee to scope out better ways to educate light-vehicle users and cyclists in their interactions with heavy-vehicle users for the purposes of attaining safer roads'.¹² More specifically, Mr Richens suggested that driving instructors could undergo heavy vehicle training as part of their accreditation, with a view to fostering greater awareness in their students, of heavy vehicles on the roads.

¹⁰ Mr Tony Richens, private capacity, *Committee Hansard*, 26 June 2017, p. 3.

¹¹ Mr Tony Richens, private capacity, *Committee Hansard*, 26 June 2017, p. 4.

¹² Mr Simon O'Hara, Road Freight NSW, *Committee Hansard*, 26 June 2017, p. 2.

He also made the point that caravan drivers could also benefit from education and training about heavy vehicle driving.¹³

Shortage of drivers

3.11 The committee heard that, alongside the increased freight task, it is relatively difficult for transport companies to find qualified drivers. Mr Simon O'Hara reported back from Road Freight NSW's most recent conference that:

...the prevailing view...is that it is difficult to get truck drivers. It is even harder to find those who are properly qualified and have experience. There is a problem in the industry and it relates to being able to capture younger people coming in. A lot of the older truck drivers have a lot of experience and they are exiting the industry.¹⁴

3.12 Evidence to the committee suggests that the industry will remain unattractive to younger people, prolonging the shortage of drivers, until such time as its economic viability is assured. Mr Sheldon of the TWU warned that:

Unless we can deal with the economics in an industry that is being driven into the ground—low margins, lack of capacity to train and now, more than ever, a shortage of drivers that is looming. Over the next decade over 40 per cent of drivers will be retiring, and there are not drivers being trained up.¹⁵

3.13 The committee is aware that not all transport industry players are resorting to hiring practices that jeopardise the safety of the industry. On the contrary, the industry is largely comprised of honest and experienced operators who know that safe practices are better for business. As the Queensland department told the committee:

Our understanding is that Australian trucking companies actually have a preference for people holding an Australian licence, and that is due to the cost of the machinery that they are handing over. They seek to have the highest skilled people possible.¹⁶

3.14 Unless addressed, however, the industry's ageing workforce has consequences that extend beyond the economics of the industry as it loses the 'safer culture around the older truck drivers'.¹⁷ Mr Sheldon observed that the 'squeeze in transport' has had 'heartbreaking results' as unskilled and unsafe drivers find themselves in situations similar to that of the M5 incident:

This squeeze sees companies hiring drivers through the loopholes you have discovered, who are so unskilled they cannot unhitch trucks or reverse

13 Mr Tony Richens, private capacity, *Committee Hansard*, 26 June 2017, p. 4.

14 Mr Simon O'Hara, Road Freight NSW, *Committee Hansard*, 26 June 2017, p. 5.

15 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 17.

16 Mr Mike Stapleton, Department of Transport and Main Roads, *Committee Hansard*, 10 November 2016, p. 8.

17 Mr Simon O'Hara, Road Freight NSW, *Committee Hansard*, 26 June 2017, p. 5.

them, holding up traffic for hours on one of our busiest thoroughfares. It sees labour agreements to bring in overseas workers so they can be paid less.¹⁸

Committee view

3.15 The committee is strongly of the view that the high road toll amongst transport workers is unacceptable and that the increasing number of road fatalities involving heavy vehicles must be addressed.

3.16 The committee encourages all levels of government to continue to dedicate resources to driver education, and to highlight the specific conditions created by heavy vehicles our roads. Further, the committee notes that vehicle design has a role to play, as 'modern cars are designed with indicators that can be very hard to see from the elevated position of a truck'.¹⁹

3.17 In the committee's view, a connection can be made between the rising heavy vehicle road toll and an increasing number of non-traditional delivery services including Amazon and UberFreight. The committee heard that these services may not share the wider industry's commitment to safety. Specifically, the committee is alarmed by 'initiatives' such as Amazon's two-day delivery guarantee which prioritises speed of delivery over safety, while also raising consumer expectations about how fast their goods can arrive.²⁰

3.18 In an industry where low profit margins place considerable financial pressures on truck drivers while at the same time, demands on them continue to grow, the 'two-day turnaround' has a significant impact on industry safety and profitability. As Mr Sheldon from the TWU noted:

If you are driving an unprofitable business with the intent of driving down prices, driving down costs in an industry that has low margins then it is extremely dangerous, and a two-day turnaround in this country is extremely dangerous.²¹

3.19 If Australia is to arrest the rising road toll involving heavy vehicles, it must continue to build skills and expertise in the transport industry while fostering a greater awareness of heavy vehicle driving conditions among light vehicle drivers. It is imperative that younger heavy vehicle drivers have the opportunity to learn safe practices from their experienced peers. To facilitate this, governments must work together to make heavy vehicle driving a safe and attractive career path.

18 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 13.

19 Mr Tony Richens, private capacity, *Committee Hansard*, 26 June 2017, p. 4.

20 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 18.

21 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 17.

3.20 The committee strongly encourages governments to consider adopting measures which encourage younger drivers to seek employment in the heavy vehicle industry. To this end, the committee encourages the Australian Government to work with its state and territory counterparts and industry to establish an attractive traineeship or apprenticeship scheme.

Addressing supply chain issues

3.21 In addition to incentives for younger drivers to enter the transport industry, witnesses told the committee that there is a critical need to look at structural and economic reform to address supply chain issues. Mr Salvatore Petrocchio of the National Heavy Vehicle Regulator articulated that:

...when economic times are tougher, one of the areas that sometimes is compromised in the industry is maintenance—and there is the impact that then has on the heavy vehicle itself. As the economic pressures become greater and the ability for an operator to make ends meet diminishes, some things have to give.²²

3.22 Likewise, the TWU warned that when economics is allowed to drive safety practices 'you are then driving people to their death'. Mr Sheldon explained:

If you drive down to the lowest cost—that is the lowest cost you will get—in the trucking industry that means both sweating the capital invested in the truck and sweating the driver. When you sweat the drivers and sweat the capital invested in the truck, you see the sorts of incidents that occurred at the M5 and the airport tunnel. You see the incident only 12 months beforehand where two people were incinerated after a refuelling truck blew into flames and subsequently the company was found to have been sweating the capital.²³

3.23 These examples highlight the need to have an effective regulatory model and stronger accountability measures throughout the supply chain. Mr Sheldon considered what was required to prevent a reoccurrence of the M5 incident:

There needs to be an accountability system for looking at low-cost contracts in a transport industry which is highly squeezed on margins, which then turns to drivers' wages and conditions being reduced or, I would suggest, bogus employment and engagement of immigrant workers on visa arrangements...The government previously abolished a system of safe roads which ensured wealthy retailers and manufacturers were held to account over exploitation in supply chains. This had the capacity to be extended to the exploitation of visa holders.²⁴

22 Mr Salvatore Petrocchio, National Heavy Vehicle Regulator, *Committee Hansard*, 26 October 2015, p. 36.

23 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 15.

24 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 13.

3.24 The link between supply chain issues and safety has been well understood for the best part of a decade. As far back as July 2008, federal, state and territory transport ministers meeting as the Australian Transport Council (now the Transport and Infrastructure Council) requested that the National Transport Commission (NTC), an independent statutory body, investigate and report on driver remuneration and payment methods in the transport industry. This work included an examination of:

- the impact of driver remuneration and payment methods on safety risks and outcomes within the heavy vehicle transport industry; and
- how chain of responsibility obligations can be applied.²⁵

3.25 Reporting in October 2008, the NTC found that 'further reforms are needed to address the underlying economic factors which create an incentive for, or encourage, unsafe on-road practices'.²⁶ It recommended that ministers endorse 'a system of safe payments for employees and owner-drivers...reinforced by appropriate chain of responsibility provisions in model road transport law'.²⁷

3.26 After further consideration by the government's Safe Rates Advisory Group,²⁸ the framework for a safe payments system was given legal effect in 2012 under the Road Safety Remuneration Tribunal (the tribunal).²⁹

Road Safety Remuneration Tribunal

3.27 The committee remains troubled by the government's decision to abolish the Road Safety Remuneration Tribunal by legislation on 19 April 2016, at a time when the transport industry most needed regulatory support.

3.28 Mr Sheldon of the TWU expressed little optimism when considering the state of the industry and the lost opportunity to improve safety arrangements:

It is an industry in crisis, yet the only intervention that has been made so far is to tear down the one body that had the ability to investigate and enforce safety arrangements. That was the Road Safety Remuneration Tribunal.³⁰

25 National Transport Commission, *Safe payments*, 1 July 2015, <<https://www.ntc.gov.au/archive/safe-payments/>> (accessed 14 September 2017).

26 National Transport Commission, *Safe payments: addressing the underlying causes of unsafe practices in the road transport industry*, October 2008, <[www.ntc.gov.au/Media/Reports/\(98BF9D12-47C6-5EAF-EEA8-BCE6B19EAEB8\).pdf](http://www.ntc.gov.au/Media/Reports/(98BF9D12-47C6-5EAF-EEA8-BCE6B19EAEB8).pdf)> (accessed 14 September 2017), p. [vii].

27 National Transport Commission, *Safe payments: addressing the underlying causes of unsafe practices in the road transport industry*, October 2008, <[www.ntc.gov.au/Media/Reports/\(98BF9D12-47C6-5EAF-EEA8-BCE6B19EAEB8\).pdf](http://www.ntc.gov.au/Media/Reports/(98BF9D12-47C6-5EAF-EEA8-BCE6B19EAEB8).pdf)> (accessed 14 September 2017), p. 43.

28 Department of Education, Employment and Workplace Relations, *Safe rates: safe roads: Directions paper*, 2010, p. 4.

29 *Road Safety Remuneration Act 2012*, s. 79 (repealed 19 April 2016).

30 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 13.

3.29 The committee expressed the strong view in its interim report that the repeal of the tribunal was a retrograde step for road safety in Australia. This view was informed by evidence of sustained low margins and poor safety practices in the industry caused by the power imbalance between clients and operators.³¹ Throughout the inquiry, the committee heard evidence in support of the tribunal, including from drivers, their families and road transport companies.³²

3.30 The TWU argued that the opportunity to address the economic and safety issues (that are entwined in the heavy vehicle industry) was lost with the tribunal's abolition, and noted that the tribunal:

...could have dealt directly with the training initiatives, the training requirements and obligations on clients as well as transport operators, and gone to the core question of the economic imperatives that drive unsafe practices, with the intent of bringing in a level playing field for everybody in the market so that skill, ability and entrepreneurship were what won contracts, rather than exploitation.³³

3.31 The tribunal had made two enforceable orders that applied to road transport drivers in supermarket distribution or long distance operations. The first, the *Road Transport and Distribution and Long-Distance Operations Road Safety Remuneration Order 2014*, imposed health and safety and contract obligations, including safe driving plans and contracts. It also required owner drivers to be paid by transport operators within 30 days of work carried out. The order applied from 1 May 2014 until 12 am on 21 April 2016.³⁴

3.32 The second order, the *Contractor Driver Minimum Payments Road Safety Remuneration Order 2016*, had effect from 4.15 pm on 7 April 2016 to 12 am on 21 April 2016. It provided minimum pay rates and unpaid leave for contractor drivers.³⁵

31 Transport Workers' Union, *Submission 64*, p. 3. See also Mr Peter Anderson, Victorian Transport Association, *Committee Hansard*, 3 July 2015, p. 29.

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

33 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 13.

34 Fair Work Ombudsman, Road Safety Remuneration System, <<https://www.fairwork.gov.au/about-us/legislation/road-safety-remuneration-system>> (accessed 18 September 2017). The tribunal ceased to exist as at 21 April 2016.

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

3.33 Since the abolition of the tribunal and its orders, the committee has seen little progress towards a resolution of the significant issues that were advanced under its stewardship. The committee heard that owner or contractor drivers still face considerable economic pressure, which can lead them to accept inferior contract terms and less than safe working conditions. Mr Sheldon gave evidence that:

There are owner-drivers who certainly take a great deal of pride in saying no, but, when you are economically pressured and stressed, whether you are a transport operator of a fleet or an owner-driver, you put your hand up to take the load rather than lose your house and lose your business. That sort of economic pressure is what needs to be dealt with. In a lot of those reports, owner-drivers are usually on the worst receiving end of pressure and exploitation.³⁶

3.34 In the committee's view, urgent and cooperative action is required across government to address, in particular, the issues of payment terms, chain of responsibility legislation and the use of electronic work diaries.

Committee view

3.35 In order to advance safety in the industry, the committee recommends that the Australian Government organise a series of industry-led roundtables for the purposes of formulating recommendations for government on the establishment of an independent industry body. This industry body should be empowered to enforce supply chain standards while also setting and enforcing sustainable, safe rates for the transport industry.

Recommendation 7

3.36 The committee recommends that the Australian Government convene a series of industry-led roundtables to make recommendations to government to establish an independent industry body which has the power to formulate, implement and enforce supply chain standards and accountability as well as sustainable, safe rates for the transport industry.

Payment terms

3.37 The abolition of the tribunal is, in the committee's view, a lost opportunity to address the pervasive issue of payment terms for heavy vehicle drivers. The tribunal's second order, *Contractor Driver Minimum Payments Road Safety Remuneration Order 2016* regulated conditions for contractor drivers and provided a minimum remuneration schedule. Amongst other requirements, the order set new conditions for

36 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 16.

payment. It required contractor drivers to be paid within 30 days of the work being undertaken.³⁷

3.38 The matter of payment terms was one of the key issues for the industry. The ATA had informed the committee in 2015 that the terms of payment had been '[g]rossly deficient'.³⁸

3.39 Mr Cameron Dunn of Australian transport company FBT Transwest gave evidence that when dealing with larger companies, businesses such as his were 'being pushed out to 120 days in terms of payments', which had a substantial impact on cash flow.³⁹ He explained that during the period that he was not receiving such payments, which was a considerable length of time, his company still had to meet its financial obligations to staff and service providers. By way of comparison, Mr Dunn noted that his company paid drivers within seven days, tow operators within 14 days and the fuel bills within 30 days.⁴⁰

Heavy Vehicle National Law and chain of responsibility

3.40 As discussed in the committee's interim report, most Australian jurisdictions adopted the Heavy Vehicle National Law (HVNL) as a uniform model for aspects of heavy vehicle regulation in 2014, with the result that fatigue management and certain vehicle standards now benefit from a national approach.⁴¹

3.41 In 2015, the committee heard that work to adopt the HVNL in Western Australia and the Northern Territory was ongoing.⁴² The committee reaffirms its recommendation that the West Australian and Northern Territory governments work towards adoption.

3.42 The HVNL is administered by the independent National Heavy Vehicle Regulator (NHVR) which has policy responsibility for a range of work, and health and safety issues in the heavy vehicle industry, including the obligations referred to as the

37 Subclause 9.4, *Contractor Driver Minimum Payments Road Safety Remuneration Order 2016*, Road Safety Remuneration Tribunal, 18 December 2015, <<https://www.fairwork.gov.au/ArticleDocuments/967/contractor-driver-minimum-payments-road-safety-remuneration-order-2016.docx.aspx>> (accessed 14 September 2017)

38 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 14 August 2015, p. 15.

39 Mr Cameron Dunn, FBT Transwest, *Committee Hansard*, 2 July 2015, p. 38.

40 Mr Cameron Dunn, FBT Transwest, *Committee Hansard*, 2 July 2015, p. 39.

41 Rural and Regional Affairs and Transport References Committee, *Aspects of Road Safety in Australia*, Interim report, p. 60.

42 Rural and Regional Affairs and Transport References Committee, *Aspects of Road Safety in Australia*, Interim report, p. 60.

'chain of responsibility'.⁴³ Toll Group's submission explained the chain of responsibility as applied in the HVNL:

The heavy vehicle national law incorporates the concept of 'chain of responsibility' (CoR) which imposes duties and obligations on all parties in the supply chain to ensure safe on-road outcomes. In deciding whether operators have taken reasonable steps to manage speed, fatigue, and mass, dimension and load restraint, regulators and enforcers are required to consider the 'measures available' and the 'measures taken' to manage those risks.⁴⁴

3.43 After undertaking an industry consultation process in 2016, the NHVR announced that changes to the Chain of Responsibility (CoR) laws will be introduced in mid-2018 which 'aim to complement heavy vehicle and national workplace safety laws, and place a positive duty of care on all heavy vehicle supply chain parties'. The NVHR announced a series of national information sessions for businesses to introduce two new tools, the 'Chain of Responsibility Gap Assessment Tool' and 'Introduction to Risk Management – A Heavy Vehicle Industry Guide'.⁴⁵

3.44 The committee recognises the potential for HVNL reforms to increase awareness and application of the chain of responsibility. Many witnesses were also in favour of such reforms. The ATA put forward a view that this will reduce what it sees as 'red tape' in the current HVNL:

The chain of responsibility laws in the heavy vehicle national law states are being reformed...They will involve a dramatic reduction in absolutely ridiculous prescriptive red tape in those laws.⁴⁶

3.45 Mr Simon O'Hara of Road Freight NSW described chain of responsibility legislation as 'part of the push for safety and greater compliance', and outlined the organisation's role in running successful roadshows in NSW on the legislation alongside the NHVR.⁴⁷ At the same time, he acknowledged that it was hard to reach those operators who do not comply, stating:

The point I would make to you is that those operators that attend the chain of responsibility seminars are the ones that do want to comply. There is a whole other part of the industry that possibly has a different view.⁴⁸

43 National Heavy Vehicle Regulator, *About the chain of responsibility*, <<https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/about-the-chain-of-responsibility>> (accessed 14 September 2017).

44 Toll Group, *Submission 33*, p. 10.

45 National Heavy Vehicle Regulator, *Changes to the chain of responsibility*, <<https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/changes-to-chain-of-responsibility>> (accessed 14 September 2017).

46 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 5.

47 Mr Simon O'Hara, Road Freight NSW, *Committee Hansard*, 26 June 2017, p. 3.

48 Mr Simon O'Hara, Road Freight NSW, *Committee Hansard*, 26 June 2017, p. 8.

3.46 Mr O'Hara underlined the 'need for chain of responsibility to be properly applied', pointing to a 'deficit in legislation' that saw an Australian company fined for the non-compliant actions of an overseas counterpart.⁴⁹

Electronic work diaries

3.47 It was brought to the committee's attention that recent NHVL reforms do not address the use of electronic work diaries (EWDs) to monitor and record the work and rest times of heavy vehicle drivers.⁵⁰ The committee's interim report noted strong support for the use of electronic work diaries as a method of reducing fatigue.⁵¹ The NHVR submitted in 2015 that:

Electronic work diaries are fundamental to risk management and safety data for the regulator. They are an early step towards the future policy framework being pursued by the regulator, where operators and drivers will be able to access increased productivity benefits in exchange for access to continuous-monitoring technology that allows full risk-based assessment of individual trucks, drivers and operators.⁵²

3.48 The committee's interim report encouraged the widespread use of electronic work diaries throughout the industry on a voluntary basis, noting advice that the necessary legislative arrangements were already in place:

In November 2014 the Transport and Infrastructure Council endorsed the necessary legislative amendments to the Heavy Vehicle National Law for the implementation of Electronic Work Diaries. The NHVR is currently working to progress arrangements for the implementation of this technology.⁵³

3.49 More recently, the NHVR website announced the regulator's intention to 'commence the assessment and approval process for EWDs as a voluntary alternative to written work diaries in late 2017'.⁵⁴

3.50 Given that the use of electronic work diaries appears to have broad industry support and legislative backing, the committee strongly encourages the NHVR to complete the overdue assessment and approval process as a matter of urgency.

49 Mr Simon O'Hara, Road Freight NSW, *Committee Hansard*, 26 June 2017, p. 3.

50 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 5.

51 Senate Rural and Regional Affairs and Transport References Committee, *Aspects of Road Safety in Australia*, Interim report, p. 61. See also Mr Tony Richens, *Committee Hansard*, 26 June 2017, p. 4.

52 Mr Salvatore Petrocchio, National Heavy Vehicle Regulator, *Committee Hansard*, 26 October 2015, p. 31.

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

54 National Heavy Vehicle Regulator, *Electronic work diaries*, <<https://www.nhvr.gov.au/safety-accreditation-compliance/fatigue-management/electronic-work-diaries-ewds>>, (accessed 14 September 2017).

Committee view

3.51 The committee has heard the call for 'proactive regulation introduced by people with knowledge and understanding of the industry',⁵⁵ and sees the need for an open dialogue between the transport industry and regulators to maintain the priority and momentum of significant reforms.

3.52 The TWU agreed on the need to bring the respective parties together.⁵⁶ Mr Sheldon made the point, however, that despite the best intentions of industry, there would be new industry players who would have a disruptive effect:

For all the good people that will sit around the table, with a ruthless disregard for the law, it is obvious that Amazon and Uber Freight coming into this market will drive the market to its furthest logical consequences, which will be more injuries and deaths and exploitation.⁵⁷

3.53 The committee views the emergence of new players as an even stronger incentive to build consensus through a cooperative and industry-led forum. Recognising that regulators and industry already agree on safety as the first priority, the committee considers that their collective expertise and goodwill could be channelled into the resolution of now well-documented supply chain issues.

3.54 With two jurisdictions working towards implementation of the HVNL, and broad agreement on a range of reform measures, the committee sees great potential for industry to drive the policy agenda and improve safety outcomes in a permanent fashion.

3.55 To this end, the committee recommends that the Australian Government take steps to organise a number of industry forums for the purposes of developing recommendations to strengthen the HVNL. Informed by the recommendations of the roundtables, the government should then amend the HVNL and thereby address the outstanding supply chain issues.

Recommendation 8

3.56 The committee recommends that the Australian Government convene a series of industry-led roundtables to make recommendations to government on ways to strengthen the Heavy Vehicle National Law.

55 Mr Tony Richens, private capacity, *Committee Hansard*, 26 June 2017, p. 4. See also Mr Michael Humphries, Australian Driver Trainers Association, *Committee Hansard*, 26 June 2017, p. 22.

56 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 16.

57 Mr Tony Sheldon, Transport Workers' Union, *Committee Hansard*, 26 June 2017, p. 18.

Recommendation 9

3.57 The committee recommends that, informed by industry roundtables, the Australian Government amend the Heavy Vehicle National Law to address issues throughout the supply chain in the transport industry including chain of responsibility, minimum payment terms of 30 days and electronic work diaries.

Chapter 4

Heavy vehicle training: towards a better national scheme

4.1 The importance of high quality and nationally consistent training for heavy vehicle drivers came into sharp focus during the committee's inquiry into aspects of road safety in Australia.

4.2 The M5 incident is just one example that highlights the potential for untrained and inexperienced heavy vehicle drivers to threaten safety on Australian roads and the road transport economy. On that occasion, the drivers' disregard for low clearance restrictions and inability to safely re-route the vehicle caused inconvenience and delays for other drivers as well as a significant commitment of state government resources. The committee recognises that the situation could have been much worse.

4.3 The committee recognises that the vast majority of the road transport industry operates with far greater care and diligence than that displayed on the M5 in February 2016. Throughout the inquiry, the committee's overriding concern has rested with preparing heavy vehicle drivers for the real challenges on our roads in order to prevent a similar incident.

4.4 Despite some progress towards harmonisation and improved standards, witnesses have provided evidence of a gap between the ideal and reality of heavy vehicle training in Australia. This chapter considers evidence that:

- implementation of the national Heavy Vehicle Competency Based Assessment (HVCBA) scheme has been slow, and its inconsistent application creates issues for drivers, instructors and assessors;
- the quality of heavy vehicle instructors and assessors in Australia varies greatly, with some lacking practical industry experience;
- the standard required to pass heavy vehicle driving assessments is low and the key competencies required of drivers do not focus on safety; and
- some instructors and assessors are able to engage in unscrupulous and corrupt behaviour in a system that lacks appropriate scrutiny and compliance activity.

National Heavy Vehicle Driver Competency Framework

4.5 On 25 July 2008, transport ministers agreed that 'heavy vehicle reforms should deliver a consistent approach' to assessment.¹ Nine years on, the committee heard that national standards for competency assessment for heavy vehicle drivers' licences are far from being achieved.

1 Roads and Maritime Services (NSW), *National heavy vehicle assessment guide*, March 2017, <<http://www.rms.nsw.gov.au/business-industry/drivinginstructors/heavy-vehicle-competency-basedassessment/index.html>> (accessed 12 September 2017), p. 2.

4.6 Flowing from this ministerial agreement, the National Heavy Vehicle Driver Competency Working Group (NHVDC Working Group) was established as a project team under the sponsorship of Austroads, the peak organisation of Australasian road transport and traffic agencies.² In November 2009, the group called for industry comment on a 'Summary of matters under consideration for a National Heavy Vehicle Driver Competency Framework' (NHVDC Framework) including:

- applying eligibility criteria consistently across all Australian jurisdictions;
- integrating the skills set for each class of heavy vehicle drivers' licence into the VET Transport and Logistics Industry Training Package;
- commercial service providers (including registered training organisations (RTOs)) administering final competency assessments as a matter of preference;
- licensing authorities administering final competency assessments only where administration by RTOs is not practical, such as in remote areas; and
- state and territory licensing authorities implementing the framework consistently, confining jurisdictional variations to back-office systems.³

4.7 In its 2010 submission to the working group, the ATA described national consistency in implementation as 'paramount' to attracting and retaining drivers and addressing skills attainment issues, arguing:

Transport Ministers and Licensing Authorities have a historic opportunity to align heavy vehicle licensing with competency-based training and assessment in such a way as to remove many barriers to the attraction, [and] retention of vocational qualifications attainment which bedevil the road freight industry currently.⁴

4.8 The ATA highlighted the need for skilled and competent drivers to keep up with the growing complexity of the industry with its larger and more technical

2 Roads and Maritime Services (NSW), *National heavy vehicle assessment guide*, March 2017, <<http://www.rms.nsw.gov.au/business-industry/drivinginstructors/heavy-vehicle-competency-basedassessment/index.html>> (accessed 12 September 2017), p. 2.

3 Australian Trucking Association, *Submission to the Heavy Vehicle Driver Competency Working Group on the National Heavy Vehicle Driver Competency Framework*, January 2010, <<http://www.truck.net.au/sites/default/files/submissions/National%20Competency%20Framework%20for%20Heavy%20Vehicle%20Drivers%20-20ATA%20submission%20Jan2010.pdf>> (accessed 12 September 2017), pp. 6–9.

4 Australian Trucking Association, *Submission to the Heavy Vehicle Driver Competency Working Group on the National Heavy Vehicle Driver Competency Framework*, January 2010, <<http://www.truck.net.au/sites/default/files/submissions/National%20Competency%20Framework%20for%20Heavy%20Vehicle%20Drivers%20-20ATA%20submission%20Jan2010.pdf>> (accessed 12 September 2017), p. 2.

vehicles, increased travelling distances, rising customer expectations and stronger regulatory and safety environments.⁵

4.9 Following this consultation process, the working group's NHVDC Framework was endorsed in March 2011 by the Standing Committee on Transport,⁶ a group operating beneath the then Australian Transport Council. The standing committee comprises the heads of each Commonwealth, state and territory government department with policy responsibility for transport.⁷

4.10 Ms Melinda Bailey of RMS in NSW told the committee that the development of the framework was a truly national effort, intended to have national application:

The intention of the national framework...was that all states would be involved...The standards were developed by the national heavy vehicle competency assessment working group that was formed by all of the jurisdictions. The best at the time around the nation got together to define those 15 criteria.⁸

Implementation progress

4.11 Evidence to the committee suggests that the progress of the NHVDC Framework has stalled, demonstrated by the fact that it is:

- yet to be implemented nationally, as it is only applied in NSW, Victoria, Tasmania and partially in Queensland; and
- implemented inconsistently between and even within jurisdictions, which provides scope for loopholes and slipping standards.

4.12 In December 2011, a Queensland Government Driver Training Industry Working Group Newsletter foreshadowed the implementation and transition arrangements in jurisdictions including Queensland:

The National Heavy Vehicle Driver Competency Working Group is presently considering how jurisdictions can implement the National Heavy Vehicle Driver Competency Framework in a coordinated manner.

5 Australian Trucking Association, *Submission to the Heavy Vehicle Driver Competency Working Group on the National Heavy Vehicle Driver Competency Framework*, January 2010, <<http://www.truck.net.au/sites/default/files/submissions/National%20Competency%20Framework%20for%20Heavy%20Vehicle%20Drivers%20-20ATA%20submission%20Jan2010.pdf>> (accessed 12 September 2017), p. 3.

6 Roads and Maritime Services (NSW), *National heavy vehicle assessment guide*, March 2017, <<http://www.rms.nsw.gov.au/business-industry/drivinginstructors/heavy-vehicle-competency-basedassessment/index.html>> (accessed 12 September 2017), p. 2.

7 National Transport Commission Review Steering Committee, *Review of the National Transport Commission*, June 2009, <https://infrastructure.gov.au/transport/australia/ntc/files/NTC_Review_Report.pdf> (accessed 12 September 2017), p. 14.

8 Ms Melinda Bailey, Roads and Maritime Services, New South Wales, *Committee Hansard*, 15 February 2017, p. 10.

Within Queensland, necessary approvals and implementation plans need to be set, which involve legislation changes and changes to IT systems etc. TMR has been keeping industry informed of progress made so far, and we are committed to continue to keep industry informed – allowing for sufficient time to transition to new arrangements.⁹

4.13 Almost five years after this industry update, Mr Stapleton of the Queensland department told the committee that Queensland 'never fully adopted the national scheme'. He explained:

We only took one step, and that was multicomination vehicles. For Queensland you still come through our driver training centres for testing and for everything but the final step.¹⁰

4.14 The national framework envisaged that RTOs would be audited on a national basis by the national regulator of the VET sector, the Australian Skills Quality Authority (ASQA). Mr Stapleton explained that in Queensland, however, TMR is 'auditing our own people' for assessments in all classes except multicomination (MC).¹¹

4.15 Queensland applies the national framework administered by RTOs for MC licences and relies on ASQA for auditing.¹² Mr Stapleton explained Queensland's partial move towards the national framework flows from its previous investment in time-based learning schemes:

...we had a number of schemes that we were running in Queensland back at that time, where you could do time based learning on the job....Those schemes had to be brought to an end before we could actually move to a full national frame. It has taken us a lot longer than the other states to go through and get into that space. The only thing we were actually able to move at that point was MC...For us, that was the one step we were able to easily do in this process.¹³

4.16 In March 2017, the committee was advised that only NSW and Victoria fully participate in the national framework, having a 'mutual recognition' arrangement in

9 Queensland Government, *Driver Trainer News: The Driver Training Industry Working Group Newsletter*, December 2011, <http://www.tmr.qld.gov.au/~media/busind/accreditations/driverandridetrainers/driver_trainer_news_Dec2011.pdf> (accessed 12 September 2017), p. [2].

10 Mr Mike Stapleton, Department of Transport and Main Roads, *Committee Hansard*, 10 November 2016, p. 9.

11 Mr Mike Stapleton, Department of Transport and Main Roads, *Committee Hansard*, 10 November 2016, p. 9.

12 Mr Mike Stapleton, Department of Transport and Main Roads, *Committee Hansard*, 10 November 2016, p. 9.

13 Mr Mike Stapleton, Department of Transport and Main Roads, *Committee Hansard*, 10 November 2016, p. 10.

place between the two jurisdictions.¹⁴ The committee acknowledges, however, that from 22 March 2017, Tasmania also implemented the national framework.¹⁵

4.17 The committee notes that in other jurisdictions, heavy vehicle driver training and assessment is conducted in the following diverse ways:

- In South Australia, authorised driving instructors deliver competency-based training courses or vehicle on road tests,¹⁶ some of which are attended by Department for Transport, Energy and Infrastructure accreditation auditors.¹⁷
- Western Australian Driver and Vehicle Service centres and agents deliver practical driving assessments and theory tests for Heavy Rigid (HR) and Heavy Combination (HC) classes, as do authorised RTOs. Similar to Queensland, however, MC class assessments are only delivered by RTOs.¹⁸
- There are two streams of assessment for all heavy vehicle classes in the Northern Territory, with Motor Vehicle Registry authorised assessment officers delivering practical driving assessments and RTOs delivering training and assessment courses.¹⁹
- In the Australian Capital Territory, knowledge assessments are delivered online and accredited heavy vehicle assessors undertake practical driving assessments.²⁰ For MC licences, government-contracted providers may also deliver courses and assessment.²¹

14 Roads and Maritime Services, answers to additional questions on notice, 28 February 2017 (received 24 March 2017), p. [3].

15 Tasmanian Government, Department of State Growth: Transport, *Heavy Vehicle Licences*, <http://www.transport.tas.gov.au/licensing/getting-a-licence/heavy-vehicles/basic_driver_licence_-_heavy_vehicle> (accessed 11 August 2017).

16 Government of South Australia, *Getting a heavy vehicle licence*, 5 July 2017, <<https://www.sa.gov.au/topics/driving-and-transport/heavy-vehicles/getting-a-heavy-vehicle-licence>> (accessed 12 September 2017).

17 Government of South Australia, Department of Transport, Energy and Infrastructure, *Trainee guide for light and medium rigid vehicles*, <https://www.sa.gov.au/__data/assets/pdf_file/0007/12967/trainee_guide_lr_mr.pdf> (accessed 12 September 2017), p. 4.

18 The Government of Western Australia, Department of Transport, *Heavy rigid licence (HR)*, <<http://www.transport.wa.gov.au/licensing/heavy-rigid-licence-hr.asp>> (accessed 12 September 2017).

19 Northern Territory Government, *Get your heavy vehicle licence*, 27 June 2017, <<https://nt.gov.au/driving/heavy/get-your-heavy-vehicle-licence/apply-for-heavy-rigid-licence-hr>> (accessed 12 September 2017).

20 ACT Government, Access Canberra, *ACT heavy vehicle drivers' handbook*, February 2012, <<https://www.accesscanberra.act.gov.au/ci/fattach/get/76978/1458603378/redirect/1/filename/ACT+heavy+vehicle+drivers%27+handbook.pdf>> (accessed 12 September 2017), p. 7.

21 ACT Government, Access Canberra, *Practical driving assessment*, 21 April 2017, <https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1626/~/-heavy-vehicle-driver-licensing#!tabs-4> (accessed 12 September 2017).

Austroads review

4.18 The committee was heartened to learn that Austroads is currently undertaking a review of the NHVDC Framework.²² The committee understands that a consultant has been engaged by Austroads to review:

- the governance, regulatory and monitoring arrangements employed by each jurisdiction in delivering heavy vehicle driver training and assessment either through the Framework or other model so that Austroads can make informed decisions about the future of heavy vehicle driver training in Australia [and]
- the appropriateness and adequacy, including the link to safety outcomes, of heavy vehicle driver training package content and heavy vehicle trainer qualifications under the Framework.²³

4.19 The committee considers this review to be long overdue. Accordingly, it encourages the transport industry's experienced stakeholders to provide input to the consultations that are underway with transport regulators, heavy vehicle industry representatives and training providers.²⁴

4.20 In conducting this review, the committee encourages Austroads to consider the issues with heavy vehicle training and assessment that were raised in evidence to this inquiry. These matters are discussed in the remainder of this chapter.

Need for consistency

4.21 Witnesses told the committee that the jurisdictional requirements for heavy vehicle training and assessment need to be harmonised, as the current differences create loopholes which can lead to poor training outcomes and can be exploited by unscrupulous operators.

4.22 The ATA called for consistency between states and territories and RTOs so that standards are uniform and reform is possible. Mr Bill McKinley of the ATA told the committee:

...we do need to make sure that the basic standards are the same and that the national interaction between the RTOs, who deliver the training and, in many cases, can access government funding to do that, and the state

22 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 1.

23 Austroads, *Review of the National Heavy Vehicle Competency Framework*, <<http://www.austroads.com.au/drivers-vehicles/registration-licensing-program/heavy-vehicle-driver-competency>> (accessed 12 September 2017).

24 Austroads, *Review of the National Heavy Vehicle Competency Framework*, <<http://www.austroads.com.au/drivers-vehicles/registration-licensing-program/heavy-vehicle-driver-competency>> (accessed 12 September 2017).

regulatory arms happen on a consistent and direct basis so that, when action is needed, it happens straightaway.²⁵

4.23 Representatives of heavy vehicle operator Scott's Transport told the committee that in their experience, different testing regimes are leading to inconsistent standards between jurisdictions. Mr Forster explained:

In our tests that we are checking ourselves, we are finding great disparity in the testing regimes in all the states. I think that something needs to be done to make them all the same; for example, in many states a B-double driver does not have to back his truck to get a licence.²⁶

4.24 Mr Warwick Burrows of RTO bctraining provided a theoretical example of the potential for drivers to forum shop between jurisdictions to obtain a licence with the minimum levels of training or experience:

Our real problem comes where there are cross-border differences between the expected quality or assessment criteria for drivers in other states and in New South Wales. New South Wales is the most rigorous; there is no doubt about it. That is not to say the rest are not...

You can, for example, go to Queensland—and...get your B-double licence and come back in 50 hours across the border, change your licence quickly enough and drive down with a New South Wales MC licence and not have done any real experience in a lesser or greater truck, be it HC or whatever. Up there they can get an HR licence, have someone sign a letter and take it into roads up there. They give them a B-double and away they go.²⁷

4.25 Even within jurisdictions that have implemented the national framework, inconsistencies can arise in the delivery of heavy vehicle training and assessment. For example, the committee heard evidence that in NSW, heavy vehicle driver testing is performed differently by RMS assessors and the RTOs, even though both are authorised to issue the same licences through the logbook-style Heavy Vehicle Competency Based Assessment (HVCBA).

4.26 According to the RMS website, the RMS-administered heavy vehicle driver test is a location-based alternative to the HVCBA for all licences except the MC class. It states that 'the primary method to get a Heavy Vehicle License is to complete a Heavy Vehicle Competency Based Assessment (HVCBA) with an Accredited Training Provider'. However, acknowledging that 'HVCBA may not be available in all areas of NSW', drivers are told that '[i]n these areas, you can take a heavy vehicle driving test with a Roads and Maritime or Service NSW testing officer'.²⁸

25 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 5.

26 Mr Phillip Forster, Scott's Transport Industries, *Committee Hansard*, 22 March 2016, p. 71.

27 Mr Warwick Burrows, bctraining, *Committee Hansard*, 15 February 2017, p. 17.

28 Roads and Maritime Services, *Heavy Vehicle Competency Based Assessment (HVCBA)*, 5 October 2016, <<http://www.rms.nsw.gov.au/business-industry/heavy-vehicles/licence/competency-based-assessment.html>> (accessed 4 August 2017).

4.27 Heavy vehicle trainer and assessor, Mr Tony Richens, told the committee that the two assessment methods have created 'double standards' in NSW heavy vehicle driver licensing. He argued:

We are competing with [RMS] for assessment business, but we have two very different standards. The RMS assessors are not required to have an in-cab camera for their assessments...The RMS assessors do not have the same test criteria...The RMS assessors are not even required to hold a class of licence for three years before being able to assess.²⁹

4.28 Mr Richens called for greater scrutiny of the results of the two assessment streams in NSW, asking '[h]as any analysis been done on the outcome of these two different processes of assessment, comparing fail rates, accidents and incidents afterwards?'³⁰ Further, Mr Burrows of bctraining, observed that once drivers are licenced, the NSW system offers subsequent employers 'no visibility' of which stream they chose.³¹

Quality of instructors/assessors

4.29 The method by which a person can become a trainer or assessor varies greatly across the country. Mirroring their approach to training heavy vehicle drivers, jurisdictions including Queensland, NSW and Western Australia offer heavy vehicle driver trainers and assessors an alternative assessment conducted by in-house departmental assessors rather than at RTOs.³²

4.30 The difference between jurisdictions is particularly stark when considering the level of industry experience required for accreditation as an instructor or assessor. The committee understands that Western Australia and Victoria are unusual in requiring, respectively, that instructors have a minimum of 3 continuous years' experience driving the vehicle class taught³³ or evidence of 12 months driving that vehicle over a five year period.³⁴

29 Mr Tony Richens, *Committee Hansard*, 26 June 2017, p. 4.

30 Mr Tony Richens, *Committee Hansard*, 26 June 2017, p. 4.

31 Mr Warwick Burrows, bctraining, *Committee Hansard*, 15 February 2017, p. 12.

32 Government of Western Australia, Department of Transport, *Heavy Rigid licence (HR)*, 10 August 2017, <<http://www.transport.wa.gov.au/licensing/heavy-rigid-licence-hr.asp>> (accessed 10 August 2017); Government of Western Australia, Department of Transport, *Get a driving instructor's licence*, <<http://www.transport.wa.gov.au/licensing/get-a-driving-instructors-licence.asp>> (accessed 7 September 2017).

33 Government of Western Australia, Department of Transport, *Get a driving instructor's licence*, <<http://www.transport.wa.gov.au/licensing/get-a-driving-instructors-licence.asp>> (accessed 7 September 2017).

34 Mr Angelo Herft, VicRoads, *Committee Hansard*, 10 November 2016, pp. 2–3.

4.31 Mr Angelo Herft of VicRoads assured the committee that VicRoads would follow the trail back to make sure that at least 12 months of experience could be verified, explaining:

We make checks to make sure that the person on the other end of the phone can verify the evidence they have provided us... If one of the documents is that you did 12 months worth of driving for company X back in 2015 or whatever, we will make that call to determine whether you were employed there, what size vehicle you drove and whether you were there for five minutes, two years or whatever it may be on your resume.³⁵

4.32 The committee remains of the view that this system of 'checks' is inherently corruptible. For example, Mr Herft acknowledged that when calls are made to verify industry experience and other evidence provided to VicRoads, its officers could be speaking to anyone who could say anything on the phone.³⁶

4.33 For trainers and assessors delivering nationally-recognised training through RTOs, industry experience is required but, in the committee's view, the metric for assessing whether that experience exists is unclear. ASQA explained that those trainers and assessors:

...must hold industry competence, so they must be competent in the skills and knowledge that they are teaching or assessing, and they must be current in their industry knowledge. They must have the skills they are teaching or assessing, they must have the knowledge they are teaching or assessing and that must be current. So they must be up-to-date with the knowledge. Effectively, they must be capable of being a current practitioner in whatever it is they are training and assessing.³⁷

4.34 When questioned further, Mr David Garner of ASQA told the committee that despite ASQA's regular audit activities, some variation in the levels of industry experience held by instructors and assessors would necessarily remain:

We could not guarantee that every single trainer and assessor—and we are talking somewhere in the order of 50,000 people—has exactly that level of expertise. They are certainly required to do so and, when we conduct audits or other regulatory activities, we test that industry experience. But we could not, in all honesty, say that at any point in time every single person in this sector complies with that requirement.³⁸

4.35 Having noted a variation in standards regarding industry experience required of heavy vehicle trainers and assessors around the country, the committee notes

35 Mr Angelo Herft, VicRoads, *Committee Hansard*, 10 November 2016, p. 6.

36 Mr Angelo Herft, VicRoads, *Committee Hansard*, 10 November 2016, p. 6.

37 Mr David Garner, Australian Skills Quality Authority, *Committee Hansard*, 10 November 2016, p. 25.

38 Mr David Garner, Australian Skills Quality Authority, *Committee Hansard*, 10 November 2016, p. 27.

evidence from witnesses which suggested that industry experience is fundamental to adequately train and assess other drivers. For example, Mr Michael Humphries of the Australian Driver Training Association (ADTA), described new trainers as 'ill-equipped' in a practical sense, providing anecdotal evidence that:

The new instructors that are coming in have had no or little industry experience, which means that, when a student says, 'How do I fill in my work diary?'... some of the instructors are unfortunately unable to tell them. We have instructors who are unable to explain the chain of responsibility and how it works and why it is important that you know what your role is before you go out and hit the road. I am sick of hearing young people obtaining a licence and being knocked off for a couple of hundred bucks worth of fines a couple of days later for not having written their garaging address in the front of their work diary.³⁹

4.36 The problems that flow from instructors lacking industry experience were echoed by Mr McKinley of the ATA, who argued 'there is no substitute for that practical experience' which is 'essential'.⁴⁰ Likewise, Mr Burrows of bctraining was of the view that:

...within the regime there is no testing as to this person's real ability or knowledge as to what is actually going to be able to be imparted on any prospective student or client. So, at the end of the day, you end up with someone who is in it, colloquially, for the money. They pass the criteria. They get all the ticks in all the boxes.⁴¹

Low standards that do not focus on safety

4.37 Perhaps flowing from the problem of ill-equipped instructors and assessors, the committee heard that the standard required of drivers who seek heavy vehicle licensing has dropped to unacceptably low levels.⁴² As a result, in some jurisdictions, it has become too easy to get a heavy vehicle licence.

4.38 Witnesses identified a pattern that has developed among learner drivers, who do not understand the responsibilities of a heavy vehicle licence, but expect to pass any testing on the first attempt.⁴³ Mr Humphries of the ADTA explained that:

...we have huge issues with the desire for short and less thorough courses, and would we accept this in other industries?...We expect that standard

39 Mr Michael Humphries, Australian Driver Trainers Association, *Committee Hansard*, 26 June 2017, p. 22.

40 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 2.

41 Mr Warwick Burrows, bctraining, *Committee Hansard*, 15 February 2017, p. 16.

42 Mr Warwick Burrows, bctraining, *Committee Hansard*, 15 February 2017, p. 15; Mr Peter Meddows, private capacity, *Committee Hansard*, 26 June 2017, p. 27.

43 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 4; Mr Michael Humphries, Australian Driver Trainers Association, *Committee Hansard*, 26 June 2017, p. 23; Mr Tony Richens, *Committee Hansard*, 26 June 2017, p. 4.

from our doctors and everyone else, yet there seems to be an expectation that getting a truck licence should be an easy task.⁴⁴

4.39 Mr McKinley of the ATA explained the implications for the skill level and safety practices of heavy vehicle drivers who have their licences promised and issued 'in a day', telling the committee that:

We have situations where people are getting licences, but they don't end up understanding the broader safety context they have to work in. They don't have an understanding of load restraint or fatigue or chain of responsibility. So we end up with badly undertrained drivers emerging with truck driver licences, but they do not have the skills they need to work in the industry safely.⁴⁵

4.40 Mr Burrows of bctraining agreed with the committee's suggestion that a culture in the heavy vehicle industry had developed whereby regulators are encouraged to 'cut red tape' by granting heavy vehicle driver competency to almost all applicants, leading to very low failure rates in most courses. It was suggested that the development of this culture was partly attributable to the high demand for drivers.⁴⁶

4.41 By way of example, Mr Burrows estimated that fail rates for NSW heavy vehicle driver assessments conducted by RTOs are as low as 'six or seven per cent across the board', resulting in pass rates of up to 94 per cent. By way of contrast, in his own RTO in 2016, there were only 25 fail/termination ratings given of the 1178 assessments conducted, which is as low as 'a quarter of one per cent'.⁴⁷

4.42 When the committee requested information about the success rates of NSW assessments conducted by RMS rather than by RTOs, it received evidence that pass rates over the four years 2013–2016 were even higher: on average 95.5 per cent across that period. RMS argued, however, that the pass rate is declining:

The number of assessments performed since 2013 has increased at an average rate of 24 per cent each year. The average pass rate since 2013 has declined by approximately 2 per cent each year on average. Annual figures are detailed in the table below:⁴⁸

44 Mr Michael Humphries, Australian Driver Trainers Association, *Committee Hansard*, 26 June 2017, p. 23.

45 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 4.

46 Mr Warwick Burrows, bctraining, *Committee Hansard*, 15 February 2017, p. 16.

47 Mr Warwick Burrows, bctraining, *Committee Hansard*, 15 February 2017, p. 14.

48 Roads and Maritime Services (NSW), answers to questions on notice, 15 February 2017 (received 24 March 2017), p. 1.

Year	Assessments	Pass rates
2013	9457	98%
2014	14 432	98%
2015	15 633	94%
2016	17 597	92%

4.43 Following questioning about the high pass rates in NSW, RMS provided evidence that their internal auditing arrangements are designed to identify individual assessors who achieve particularly high pass rates or conduct high volumes of assessments, noting that it would also flag these matters in audits of NSW RTOs to be conducted by ASQA.⁴⁹

4.44 To raise the standard of heavy vehicle driver training and restore its safety focus, some witnesses called for more comprehensive training and testing across jurisdictions to mitigate the risk of accidents.⁵⁰ Based on his experience as a trainer in NSW, Mr Richens suggested that 'a more comprehensive online knowledge test be designed that heightens awareness of the actual complexities of obtaining a heavy vehicle licence'.⁵¹

4.45 The ADTA called for a 'strong set of performance criteria attached to the competency standard...set down by ASQA', telling the committee 'it is not as prescriptive as it should be' and contains 'anomalies' that can allow incompetent or inexperienced drivers to pass.⁵²

4.46 The ATA suggested that improvements may be forthcoming to the standard of training and assessment in VET-based units offered by RTOs, as:

The reference committee covering the trucking industry, the Transport and Logistics Industry Reference Committee, have now developed a proposed schedule of work to upgrade the driver training and heavy vehicle safety VET units.⁵³

4.47 While this is an encouraging development for training and assessment conducted by RTOs, the committee notes that alternative training and assessment paths still exist in most jurisdictions. Accordingly, more needs to be done to lift

49 Roads and Maritime Services (NSW), answers to questions on notice, 15 February 2017 (received 24 March 2017), p. 1.

50 Mr Simon O'Hara, Road Freight NSW, *Committee Hansard*, 26 June 2017, pp. 5–6.

51 Mr Tony Richens, *Committee Hansard*, 26 June 2017, p. 4.

52 Mr Michael Humphries, Australian Driver Trainers Association, *Committee Hansard*, 26 June 2017, pp. 25–6.

53 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 1.

standards consistently across the nation. The committee is of the view that pass rates should be examined closely at a national level, either as part of the Austroads review or in an audit by ASQA.

Strengthened compliance

4.48 Contributors to the inquiry, particularly from NSW, raised a number of issues with the integrity of nationally-recognised heavy vehicle training and assessment as conducted by RTOs. As Mr Humphries of the ADTA put it, '[t]he reality is that there are dodgy operators in the system'.⁵⁴

4.49 The oversight of RTOs by ASQA was identified as an issue in the committee's interim report. The committee made the following recommendation:

The committee recommends that Australian Skills Quality Authority conduct an audit of all heavy vehicle driver training facilities (registered training organisations) in Australia.⁵⁵

4.50 Since its interim report, the committee heard renewed calls for strengthened compliance activity to ensure a more universal application of heavy vehicle driver competency standards and the elimination of unique requirements in NSW that can have adverse results for trainers, assessors and drivers alike.

4.51 The committee notes that the monitoring and compliance regime in heavy vehicle assessments in NSW has been heavily influenced by the outcomes of the 'Binos case', which led to the NSW Independent Commission Against Corruption's (ICAC) 2013–14 Operation Nickel. In circumstances not dissimilar to the M5 incident, ICAC:

...investigated allegations that Christopher Binos, a former heavy vehicle competency-based assessor acting on behalf of Roads and Maritime Services (RMS), solicited benefits from applicants for heavy vehicle licences, and conducted fraudulent heavy vehicle assessments. It was also alleged that Mr Binos signed log books certifying applicants as competent to drive a heavy vehicle without the applicants completing the necessary assessments, in exchange for cash payments.⁵⁶

4.52 Following its investigation, ICAC recommended that RMS require RTOs to implement 'in-cabin video camera and GPS technology solutions to record and monitor HVCBA final competency assessments'. It recommended that RMS

54 Mr Michael Humphries, Australian Driver Trainers Association, *Committee Hansard*, 26 June 2017, p. 22.

55 Rural and Regional Affairs and Transport Committee, *Aspects of road safety in Australia*, Interim report, May 2016, Recommendation 15, p. viii.

56 Independent Commission Against Corruption (NSW), *Roads and Maritime Services – allegations concerning conduct of heavy vehicle assessments (Operation Nickel)*, <<https://www.icac.nsw.gov.au/investigations/past-investigations/investigationdetail/199>> (accessed 2 August 2017).

implement systems, processes and business rules to own, collect, review and archive the recordings, including utilising the recordings to 'enhance the auditing of the HVCBA scheme'.⁵⁷ RMS responded in April 2014 with an implementation plan to give effect to the recommendation, with the caveat that RTOs would themselves 'own, collect and archive recordings'.⁵⁸ Since 1 September 2014, RMS has required mandatory in-cabin video and GPS technology during assessments.⁵⁹

4.53 The implementation of in-cabin video camera and GPS technology solutions was positively received by witnesses from both NSW⁶⁰ and Victoria which has an equivalent requirement.⁶¹ For example, Mr Burrows of bctraining gave evidence that his organisation's 32 assessors all use multiple cameras without difficulty.⁶² Mr Herft of VicRoads explained the auditing capability that the technology enables in Victoria:

All the providers are required to record each test, clearly identifying the client, the record number, the test number and all that sort of business, their licence number, the date, the time—the whole range. All those videos are eventually taken up by VicRoads, once we recall them, and we keep those. We audit them, either randomly or if we have a complaint about one particular assessor or something like that. So we will audit those and look for anything from fraudulent activity to perhaps training issues.⁶³

4.54 The committee has already considered the issue of single jurisdictions providing multiple training and assessment pathways, and compliance is another area where this seems to create problems. Trainer and assessor Mr Richens expressed concern that while trainers and assessors who work for RTOs in NSW are required to comply, 'RMS assessors are not required to have an in-cab camera for their assessments'.⁶⁴

57 Independent Commission Against Corruption (NSW), *Investigation into false certifications of heavy vehicle competency-based assessments by a Roads and Maritime Services-accredited assessor*, ICAC Report January 2014, p. 6.

58 Independent Commission Against Corruption (NSW), *Plan for implementation of recommendations*, <https://www.icac.nsw.gov.au/images/investigations/implementation_plans/Nickel/implementation-plan-roads-and-maritime-services-operation-nickel.pdf> (accessed 2 August 2017), p. 1.

59 Ms Melinda Bailey, Roads and Maritime Services, New South Wales, *Committee Hansard*, 15 February 2017, p. 3.

60 Mr Warwick Burrows, bctraining, *Committee Hansard*, 15 February 2017, pp. 13–14.

61 Mr Angelo Herft, VicRoads, *Committee Hansard*, 10 November 2016, p. 3.

62 Mr Warwick Burrows, bctraining, *Committee Hansard*, 15 February 2017, p. 14.

63 Mr Angelo Herft, VicRoads, *Committee Hansard*, 10 November 2016, p. 3.

64 Mr Tony Richens, *Committee Hansard*, 26 June 2017, p. 4.

4.55 Some witnesses criticised NSW-specific audit procedures as overly complex and often ineffective.⁶⁵ One example of this is the separation of training and assessment, a condition applied from 1 September 2015 to 'improve the integrity of the HVCBA Scheme by mitigating fraud and corruption risk, and conflict of interest'.⁶⁶ RMS told the committee that, of the states that have adopted the national framework, only NSW has 'implemented the separation of training and assessment as a scheme condition to ensure the assessor is independent of the person delivering the training'.⁶⁷

4.56 The committee heard a range of objections to the separation of training and assessment in NSW. Interestingly, the objections started with concerns raised by RMS in its response to the ICAC report into the Binos case.⁶⁸ The ICAC report acknowledged early objections from RMS to the proposal, in particular 'that splitting the assessment from the training is not practicable', and would place onerous demands on the industry and applicants in regional areas.⁶⁹ Despite this early objection, the NSW Government implemented the separation of training and assessment in 2015.

4.57 It appears to the committee that unfortunately, RMS's prediction was accurate in relation to the impact on regional areas. By way of example, Mr Burrows of bctraining gave evidence that:

The effect on smaller RTOs and trainer-assessors in regional New South Wales has been devastating, causing hardship and negative impact on their businesses. Some have had their incomes drastically reduced. Some have been forced out of business, giving the larger operators the monopoly in the area. And applicants are being disadvantaged by not being able to access training and assessment in their own local area.⁷⁰

4.58 The separation of heavy vehicle training and assessment in NSW was further criticised by witnesses and submitters as:

65 Mr Tony Richens, *Committee Hansard* 26 June 2017, p. 3; Mr Peter Meddows, *Committee Hansard*, 26 June 2017, p. 24; Mr Michael Humphries, Australian Driver Trainers Association, *Committee Hansard*, 26 June 2017, p. 27.

66 Roads and Maritime Services, *Separation of training and assessment: HVCBA Scheme Q&A*, 1 September 2015, <<http://www.rms.nsw.gov.au/documents/business-industry/driving-instructors/hvcba-separation-training-assessment-qa.pdf>> (accessed 2 August 2017).

67 Ms Melinda Bailey, Roads and Maritime Services, New South Wales, *Committee Hansard*, 15 February 2017, pp. 2, 6.

68 Mr Warwick Burrows, bctraining, *Committee Hansard*, 15 February 2017, p. 14.

69 Independent Commission Against Corruption (NSW), *Investigation into false certifications of heavy vehicle competency-based assessments by a Roads and Maritime Services-accredited assessor*, ICAC Report January 2014, p. 6.

70 Mr Warwick Burrows, bctraining, *Committee Hansard*, 15 February 2017, p. 14.

- adding to the corruption it was designed to cut down on 'by way of people teaming together';⁷¹
- a 'logistical nightmare' especially in regional centres;⁷²
- 'prejudicial and commercially unviable' due to the need to share client information and a percentage with competitors;
- 'totally unnecessary regulation that only complicates...the audit process' especially given that in-cabin video record all tests;
- inconsistent with the approach taken by VicRoads;⁷³
- having led to the industry losing 'fabulous assessors' with considerable experience who were unable to comply with part 4.2D;⁷⁴ and
- having 'created a monopoly for other assessors and RTOs who were multiple employees of a business against a single operator in any given town'.⁷⁵

4.59 While state-specific regulations are beyond the scope of this inquiry, this example highlighted the necessity for a national competency framework that considers the needs of all system users, including those in remote and regional areas. The addition of compliance measures that have adverse consequences would appear to create more harm than good.

4.60 In place of jurisdiction-specific compliance measures, the committee heard calls for greater scrutiny of RTOs by the national body ASQA. The ATA gave evidence that the 'relationship between the state road transport authorities, ASQA and the VET system is unresolved everywhere'.⁷⁶ Mr McKinley explained that in NSW, this results in a communication breakdown that has to be addressed if heavy vehicle training is to be improved:

What concerns us in particular is the apparent lack of communication between RMS, on the one hand, and ASQA, on the other. The RTOs are simultaneously regulated by ASQA, because they're registered training organisations, and, because they're driver training organisations, by the state department. Yet there is a lack of communication between the VET side of the training system and the road transport regulation side of the training

71 Mr Michael Humphries, Australian Driver Trainers Association, *Committee Hansard*, 26 June 2017, p. 21.

72 Mr Tony Richens, private capacity, *Committee Hansard*, 26 June 2017, p. 4. See also Mr David Bussey, *Submission 81*, p. [2]; Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 7.

73 Mr Tony Richens, *Committee Hansard*, 26 June 2017, p. 4.

74 Mr Warwick Burrows, bctraining, *Committee Hansard*, 15 February 2017, p. 20.

75 Mr Warwick Burrows, bctraining, *Committee Hansard*, 15 February 2017, p. 13.

76 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 7.

system. That gap has got to be closed in order to ensure that heavy vehicle drivers are trained well and safely and properly.⁷⁷

4.61 The ATA reported having 'discussions with ASQA about the issue of driver training generally and the need to police it more strongly'.⁷⁸ Indeed, Mr Garner of ASQA told the committee that '[w]e have heard claims that there are differing standards between providers'. He explained that a 'provider who has a higher number of complaints is obviously a higher risk to us and is more likely to come under more robust regulatory scrutiny in the future'.⁷⁹

4.62 The committee notes evidence that ASQA has received few complaints about heavy vehicle driver training and assessment, which does not accord with evidence received during the inquiry of underhanded practices in the training industry. Mr Garner of ASQA gave evidence that:

In the last two years, we have received a total of two complaints in this area. One of these was against an organisation that is not a registered training organisation, which was purporting to be able to offer nationally recognised training. There was one complaint about a registered training organisation. So there are very low levels of what we would call noise or intelligence in the system in this particular area.⁸⁰

4.63 The lack of use of ASQA's complaints mechanism in relation to heavy vehicle training and assessment leads the committee to conclude that more can be done by the national body to investigate and protect the integrity of the system.

Committee view

4.64 Australia needs to move towards a more comprehensive and consistently applied national scheme for the training and assessment of heavy vehicle drivers. The promise of the NHVDC Framework has been undermined by its lack of universal application both within and between Australian states and territories, and by evidence of falling standards and lack of reform.

4.65 The committee has heard concerning evidence that there is a wide variation in the quality of instructors/assessors in the heavy vehicle industry. In particular, the committee was told that some lack industry experience and are therefore unable to equip new drivers with the necessary skills and understanding of the practical realities of the industry. As a result, the industry risks diluting its own talent pool with underqualified drivers.

77 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 3.

78 Mr Bill McKinley, Australian Trucking Association, *Committee Hansard*, 8 August 2017, p. 3.

79 Mr David Garner, Australian Skills Quality Authority, *Committee Hansard*, 10 November 2016, p. 27.

80 Mr David Garner, Australian Skills Quality Authority, *Committee Hansard*, 10 November 2016, p. 28.

4.66 Considering that almost a decade has passed since transport ministers acknowledged the need for national consistency in training and assessment, the 2017 Austroads review of the NHVDC Framework is well overdue. The committee encourages governments to give the review the support and resources it requires to adequately discharge its important task.

4.67 Following the Austroads review, or indeed alongside its progress, the committee encourages the remaining states and territories to take concrete steps to implement the NHVDC Framework. Acknowledging that the change process will require resources and infrastructure, the committee recalls the commitment expressed by jurisdictions in 2011 to a truly national scheme.

4.68 In place of jurisdiction-specific compliance measures, the committee encourages all states and territories to work together through the TIC to improve the quality of the national framework, and to ensure it meets the needs of users across the country, in metropolitan as well as regional and remote areas. The committee calls on ASQA to assist the transport industry by looking more closely, and in a systemic fashion, at the RTOs who deliver heavy vehicle training and assessment. This inquiry has demonstrated that any threat to the integrity of heavy vehicle training and assessment is a threat to road safety in Australia.

Recommendation 10

4.69 The committee recommends that the Austroads review consider:

- **raising the standard required of heavy vehicle drivers under the Heavy Vehicle Competency Based Assessment (HVCBA), with a renewed focus on safety; and**
- **national consistency in relation to heavy vehicle instructor or assessor eligibility, including requiring mandatory industry experience in driving and handling the appropriate vehicle.**

Recommendation 11

4.70 Following the Austroads review, the committee recommends that the COAG Transport and Infrastructure Council work to ensure that all jurisdictions adopt the revised criteria of the National Heavy Vehicle Driver Competency Framework (NHVDC Framework) as a matter of urgency.

Recommendation 12

4.71 The committee recommends that the Australian Skills Quality Authority (ASQA) take a more active role in monitoring the delivery of heavy vehicle training undertaken by registered training organisations and other providers.

Senator Glenn Sterle
Chair

Additional comments of Senator Barry O'Sullivan and Senator Slade Brockman

1.1 The Government Committee members stand by the decision to abolish the Road Safety Remuneration Tribunal. Working towards the goals established by all jurisdictions under the National Road Safety Strategy 2011-2020 should be all parties' main focus.

Senator Barry O'Sullivan
Deputy Chair

Senator Slade Brockman

Appendix 1

Submissions received

Submission Number	Submitter
80	Mr Stephen Lee
81	Mr David Bussey

Additional information received

- Received on 28 November 2016, from the Department of Immigration and Border Protection. Answers to questions taken on notice at a public hearing on 10 November 2016.
- Received on 15 December 2016, from VicRoads. Answers to questions taken on notice at a public hearing on 10 November 2016;
- Received on 5 January 2017, from the Queensland Department of Transport and Main Roads. Additional information, correspondence from Acting Director-General Mike Stapleton to Senator Glenn Sterle;
- Received on 20 February 2017, from Mr Warwick Burrows. Additional information, HVCBA training and assessment method of delivery;
- Received on 23 March 2017, from Roads and Maritime Services (NSW). Additional information, correction of evidence given at a public hearing held on 15 February 2017;
- Received on 24 March 2017, from Roads and Maritime Services (NSW). Answers to questions taken on notice at a public hearing on 15 February 2017;
- Received on 24 March 2017, from Roads and Maritime Services (NSW). Answers to additional questions taken on notice on 28 February 2017;
- Received on 13 June, from Mr Frederick Litchfield. Additional information, report titled 'The cost of road crashes in Australia 2016: An overview of safety strategies';
- Received on 26 June 2017, from the Transport Workers' Union. Additional information, correspondence between the Transport Workers' Union and Lipman James on behalf of Northline Pty Ltd;
- Received on 8 July 2017, from Roads and Maritime Services (NSW). Answers to additional questions taken on notice on 28 February 2017;
- Received on 31 July 2017, from Northline Pty Ltd. Additional information, response to comments made a public hearing on 26 June 2017;

- Received on 7 September, from Transport for NSW. Answers to additional questions taken on notice on 28 February 2017;
- Received on 26 September 2017, from the Department of Immigration and Border Protection. Answers to questions taken on notice at a public hearing on 29 August 2017;

Tabled documents

Thursday, 10 November 2016, Canberra, ACT

- Tabled by the Australian Skills and Quality Authority. Summary data for Identified Units of Competency.

Tuesday, 29 August 2017, Canberra, ACT

- Tabled by the Department of Immigration and Border Protection. Opening statement.

Appendix 2

Public hearings and witnesses

Thursday, 10 November 2016, Canberra, ACT

- ANDREW, Ms Fiona, Assistant Secretary, Character Assessment and Cancellation Branch, Community Protection Division, Visa and Citizenship Services Group, Department of Immigration and Border Protection
- DALE, Ms Erin, Acting Assistant Commissioner, Border Management Division, Australian Border Force
- GARNER, Mr David, General Manager, Regulatory Operations, Australian Skills Quality Authority
- GRAY, Mr Robin, Acting Commander, Immigration Compliance Branch, Australian Border Force
- HERFT, Mr Angelo, Manager Registration and Licensing External Services, VicRoads
- MAHON, Mr Andrew, Executive Director, Transport Access and Use, Department of Transport and Main Roads
- MARTIN, Mr Greg, Acting Assistant Secretary, Temporary Visa Program Branch, Department of Immigration and Border Protection
- SHELTON, Mr David, Executive Director of Registration and Licensing, VicRoads
- STAPLETON, Mr Mike, Acting Director-General, Department of Transport and Main Roads

Wednesday, 15 February 2017, Canberra, ACT

- BAILEY, Ms Melinda, Executive Director, Compliance and Regulatory Services, Roads and Maritime Services, New South Wales
- BURROWS, Mr Warwick Stanley, Managing Director, bctraining
- CARLON, Mr Bernard, Executive Director, Centres for Road Safety and Maritime Safety, Transport for New South Wales

Monday, 26 June 2017, Sydney, NSW

- HUMPHRIES, Mr Michael, General Manager, Australian Driver Trainers Association
- MEDDOWS, Mr Peter, Private capacity
- O'HARA, Mr Simon, General Manager, Road Freight NSW
- RICHENS, Mr Anthony Kenneth (Tony), Private capacity
- SHELDON, Mr Tony, National Secretary, Transport Workers' Union

Tuesday, 8 August 2017, Canberra, ACT

- MCKINLEY, Mr Bill, Chief of Staff, Australian Trucking Association

Tuesday, 29 August 2017, Canberra, ACT

- ANDREW, Ms Fiona, Assistant Secretary, Character Assessment and Cancellations, Department of Immigration and Border Protection
- DACEY, Ms Christine, First Assistant Secretary, Visa and Citizenship Management Division, Department of Immigration and Border Protection
- MILLER, Commander Robyn, Field and Removals Operations, Enforcement Command, Department of Immigration and Border Protection
- SCHUPPAN, Mr Brett, Acting Assistant Secretary, Community Protection and Border Policy, Department of Immigration and Border Protection

Appendix 3

List of recommendations made in the interim report

Recommendation 1

1.44 The committee recommends that the Commonwealth Government commit \$150 000 for three years from 2016-17 to fund the continued operation of the Australian Trauma Registry.

Recommendation 2

1.66 The committee recommends that the National Transport Commission amend the model Australian Road Rules to mandate a safe passing distance for drivers overtaking cyclists of one metre where the speed limit is 60 kilometres per hour or lower and 1.5 metres where the speed limit is higher.

Recommendation 3

1.74 The committee recommends that the National Transport Commission re-establish a national consultative committee on motorcycle safety.

Recommendation 4

1.75 The committee recommends that the National Transport Commission develop and implement a national strategy for motorcycle safety.

Recommendation 5

2.45 The committee recommends that the Commonwealth Government commit increased financial support to Australasian New Car Assessment Program (ANCAP) over the forward estimates.

Recommendation 6

2.46 The committee recommends that the Commonwealth Government work with state and territory governments to ensure that display of Australasian New Car Assessment Program (ANCAP) safety ratings becomes mandatory at point of sale.

Recommendation 7

2.49 The committee recommends that the Commonwealth Government continues to fund Monash University Accident Research Centre to produce the Used Car Safety Ratings.

Recommendation 8

2.61 The committee recommends that the Australian Design Rules be immediately amended to require all new light vehicles sold in Australia from 1 June 2017 be fitted with automatic emergency braking technology.

Recommendation 9

3.32 The committee recommends that Commonwealth Government increase funding to the Black Spot Programme and increase the percentage allocated to regional and remote areas.

Recommendation 10

3.33 The committee recommends that the definition of 'black spot' be revised to account for the dispersed nature of accidents in regional and remote areas.

Recommendation 11

3.40 The committee recommends that Commonwealth, state and territory governments work with police agencies to increase the number of point-to-point speed cameras in regional and remote areas.

Recommendation 12

3.50 The committee recommends that the Australian Curriculum includes road awareness training for both primary and secondary school students.

Recommendation 13

3.52 The committee recommends that the Commonwealth Government in the 2018–2020 National Road Safety Strategy Action Plan commit to the introduction of accredited post-licence driver education programs.

Recommendation 14

3.57 The committee recommends that Austroads work with state and territory driver licensing authorities to introduce compulsory first aid training as a condition of receiving a learner's permit or renewing a drivers licence.

Recommendation 15

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

Recommendation 16

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

Recommendation 17

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