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# **Submission to the Inquiry into Industrial Deaths in Australia**

*6 June 2018*

**The Transport Workers' Union of Australia**

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## **TWU Background**

The Transport Workers' Union of Australia (TWU) represents tens of thousands of men and women in Australia's aviation, oil, waste management, gas, road transport, passenger vehicles and freight logistics industries.

With over one hundred years' experience in conducting Australia's freight task, the TWU has been proactive in establishing industry standards that improve the lives and safety of transport workers, their families and the community.

The TWU welcomes the opportunity to contribute to the Inquiry into industrial deaths in Australia and looks forward to appearing in person before the Committee.

## **Introduction**

One worker killed on the job is too many.

In Australia, it is outrageous that industrial deaths are unacceptably commonplace.

The investigation and prosecution of all industrial deaths is important and essential to the integrity of our system. However, it is the prevention of incidents at work - which includes in the cab of a truck - that is most crucial to saving lives.

The transport and logistics industry is the most dangerous industry in the country and accounted for the most fatalities recorded of any industry in Australia in 2016.<sup>1</sup> For the purposes of this submission, we will use the road transport sector to illustrate the urgent need for change. Critically however, similar issues exist throughout the entire transport and logistics industry.

The reality is that when a transport worker is killed at work - especially on our roads - the devastation extends well beyond one workplace and home. Too many husbands, wives, sisters and brothers are killed each year in truck crashes, including both drivers and members of our community in transit.

The deadly economics of the transport industry mean that addressing the crisis on our roads will involve a whole of supply chain approach. Wages and conditions have been suppressed across the industry for years, leading to intolerable pressures being put on drivers. Ongoing training and inductions at work are critical, as is all workers having a union voice.

An independent road safety Tribunal that had been set up to tackle the economics of the sector, address standards and save lives was abolished in 2016, leaving a critical gap in regulation that has impacted the safety of all road users.

It is time for change and Safe Rates. Action must be taken to end the carnage.

This submission will deal with the following issues set out in the Terms of Reference:

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<sup>1</sup> Gibbs, B., 'Australia's most dangerous industries revealed' (16 January 2018) The Sydney Morning Herald.

- d. Safety implications relating to the increased use of temporary and labour hire workers;
- e. The role of employers and unions in creating a safe-work culture; and
- g. Any other related matters.

### **A sector in crisis**

In the 10 years to 2014, 2,500 members of our community were killed in truck crashes.<sup>2</sup>

As Professor Ann Williamson set out:

“Heavy trucks are disproportionately involved in fatal crashes on our roads and the trucking industry represents the highest number of work-related fatalities across all industries in Australia.”<sup>3</sup>

During the 12 months to the end of March 2018, 184 people were killed in 163 fatal crashes involving heavy trucks, with fatal crashes involving heavy rigid trucks increasing.<sup>4</sup> In NSW there was a 92% increase in deaths from articulated truck crashes in the 12 months to the end of December 2017.<sup>5</sup>

A survey of truck drivers, collated as part of a Macquarie University report,<sup>6</sup> found that:

- Over 80% of truck drivers work more than 50 hours a week, with 10% working over 80 hours;
- One in six drivers who own their own trucks do not believe they can refuse an unsafe load; and
- Almost one in five owner drivers said they would not report being pressured to falsify a work diary. Of this, 42% said the reason for not reporting would be a fear of losing their job.

Underscoring these findings, a SafeWork Australia report in July 2015<sup>7</sup> showed the following:

- 31% of transport employers say workers ignore safety rules to get the job done;

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<sup>2</sup> Patty, A., ‘Truck driving: one of the deadliest workplaces in Australia’ (2 February 2017) The Sydney Morning Herald.

<sup>3</sup> Williamson, A., ‘Truck drivers still aren’t paid for all the work they do, leading to fatigue on our roads’ (30 January 2018) The Conversation.

<sup>4</sup> Bureau of Infrastructure, Transport and Regional Economics, Fatal Heavy Vehicle Crashes Australia, Quarterly Bulletin, January – March 2018:

[https://bitre.gov.au/publications/ongoing/fhvc/files/Bulletin\\_Mar\\_2018\\_IV.pdf](https://bitre.gov.au/publications/ongoing/fhvc/files/Bulletin_Mar_2018_IV.pdf)

<sup>5</sup> Bureau of Infrastructure, Transport and Regional Economics, Fatal Heavy Vehicle Crashes Australia, Quarterly Bulletin, October – December 2017:

[https://bitre.gov.au/publications/ongoing/fhvc/files/Bulletin\\_Dec\\_2017.pdf](https://bitre.gov.au/publications/ongoing/fhvc/files/Bulletin_Dec_2017.pdf)

<sup>6</sup> Macquarie University Newsroom, ‘Report Reveals Overworked Truck Drivers Fear Raising Safety Concerns, 3 February 2017: <https://www.mq.edu.au/newsroom/2017/02/03/report-reveals-overworked-truck-drivers-fear-raising-safety-concerns/>

<sup>7</sup> SafeWork Australia, ‘Transport Industry Synthesis of Research Findings’, July 2015.

- 10% of transport employers accept dangerous behaviour, compared to less than 2% in other industries; and
- 20% of transport industry employers break safety rules to meet deadlines, compared with just 6% of employers in other industries.

A report released by Monash University in April 2018 into work-related injury and disease in the Australian transport sector workers presented similarly disturbing results.

The Monash University report analysed workers compensation claims and found that:

“The rate of claims is up to five times higher in transport worker groups than in other workers.”<sup>8</sup>

Road transport accounted for 5,100 accepted serious injury claims a year, with approximately 14 each day.<sup>9</sup> Trucks drivers recorded a rate of 70.3 claims for every 1000 workers per year,<sup>10</sup> an inflated figure even when factoring in that this likely doesn't take into account the nearly 14% of transport workers that are categorised as 'independent contractors'.<sup>11</sup> The report also found that truck drivers carry three times the risk of making other traumatic conditions claims compared to all other workers.<sup>12</sup>

### **A critical gap**

A major deficiency in addressing industrial deaths and safety on our roads is the absence of appropriate regulation of the road transport sector, particularly in terms of holding clients at the top of transport supply chains accountable for the pressure that they put on the industry.

This deficiency must be addressed for deaths at work across the road transport sector to end.

In April 2016, the Federal Government abolished the Road Safety Remuneration Tribunal. The Tribunal was in the process of making sector-specific findings and rolling out a system that was holding wealthy industry clients to account for low cost contracts which do not allow their goods to be delivered safely.

The abolition of the Tribunal has led to a 'critical gap' in regulation. A Macquarie University report stated that:

“The competitive nature and cost structures of this industry are such that, in the absence of regulation, positive safety outcomes for drivers are extremely unlikely even with the most enlightened employers. This means that gaps in regulation almost inevitably will lead to accidents, injuries and disease. The critical present gap requiring policy development is the lack of regulation which places responsibility on

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<sup>8</sup> Monash University, 'National Transport and Logistics Industry Health and Wellbeing Study', April 2018, P.4.

<sup>9</sup> Monash University, 'National Transport and Logistics Industry Health and Wellbeing Study', April 2018, p.6.

<sup>10</sup> Monash University, 'National Transport and Logistics Industry Health and Wellbeing Study', April 2018, p.4.

<sup>11</sup> Monash University, 'National Transport and Logistics Industry Health and Wellbeing Study', April 2018, p.25.

<sup>12</sup> Monash University, 'National Transport and Logistics Industry Health and Wellbeing Study', April 2018, p.20.

those higher in the CoR to ensure safe remuneration of truck drivers. With the RSRT's abolition, the first attempt to address this issue systematically ended."<sup>13</sup>

In 2017, an 'Aspects of Road Safety in Australia' inquiry led by the Senate Rural and Regional Affairs and Transport References Committee found that the repeal of the Road Safety Remuneration Tribunal was a "retrograde step for road safety in Australia."<sup>14</sup>

The Committee recommended that the Federal Government:

"... 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."<sup>15</sup>

### **Pressure in the road transport sector**

The plight of Tip Top drivers that was brought to light in 2017 shows exactly what occurs when commercial drivers and small businesses in the road transport sector are put under extreme economic pressure.

The ABC exposed that Tip Top owner drivers in NSW had their rates of pay significantly reduced in recent years, which saw businesses go under and safety on our roads severely compromised. At least a dozen drivers told ABC's 7.30 that it was "common practice for drivers to work for months without a day off because they could not afford to employ relief drivers to cover their runs."<sup>16</sup> The investigation also revealed "repeated pay cuts, rising maintenance costs and pressure to deliver more bread meant some trucks were not being regularly serviced."<sup>17</sup>

This is a recipe for carnage on our roads.

One Tip Top driver suffered a heart attack at the end of one of his shifts and later died. The ABC reported that "he often worked 14 hour shifts, seven days a week, but he still struggled to make ends meet" with his family saying that "he had not had more than a couple of days off in three months."<sup>18</sup>

Another driver was diagnosed with lung cancer and, while undergoing chemotherapy, had no choice but to employ a relief driver. The ABC stated that "by that point he was no longer

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<sup>13</sup> Thornthwaite, L. and O'Neill, S., 'Evaluation Approaches to Regulating WHS in the Australia Road Freight Transport Industry' (2016), p.115.

<sup>14</sup> Australian Senate Rural and Regional Affairs and Transport Committee, 'Aspects of Road Safety in Australia' Inquiry, October 2017, p.34.

<sup>15</sup> Australian Senate Rural and Regional Affairs and Transport Committee, 'Aspects of Road Safety in Australia' Inquiry, October 2017, p.35.

<sup>16</sup> Worthington, E. and McDonald, A., 'Tip Top trucks deemed defective after inspections reveal safety issues' (1 December 2017) ABC News.

<sup>17</sup> Worthington, E. and McDonald, A., 'Tip Top trucks deemed defective after inspections reveal safety issues' (1 December 2017) ABC News.

<sup>18</sup> Worthington, E. and McDonald, A., 'Tip Top drivers being 'worked to death' as families call for greater responsibility', (5 December 2017) ABC News.

making any money from his delivery run” and after having his pay slashed and facing ongoing costs, gave up the run. One month later he was back in hospital and died shortly after.<sup>19</sup>

Tip Top driver Paul Clapson stated:

"Because we aren't getting paid what we probably should be, your maintenance goes on your truck, you become a problem out on the road... There are a lot of contractors who are scared to speak out... We have trucks going out there that cannot be roadworthy. It seems to be ignored by Tip Top. The whole chain of responsibility seems to be put on us."<sup>20</sup>

In December 2017, Police and Roads and Maritime Services (RMS) officers inspected 46 trucks and issued 25 defect notices. All six of the vehicles directly owned by Tip Top were deemed defective.<sup>21</sup>

This is but one example of the pressures that lead to deadly outcomes in workplaces and on our roads in the road transport sector.

### **Safety and insecure work**

The 2017 'Aspects of Road Safety in Australia' inquiry led by the Senate Rural and Regional Affairs and Transport References Committee reported on the use of overseas drivers in the transport industry. The Committee cited the incident on the M5 freeway in Sydney on 5 February 2016 involving two drivers that 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 Committee noted that:

“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.”<sup>22</sup>

The Committee made a number of recommendations as a result of their investigations concerning licencing, skills tests and legislative consistency.

The incident and subsequent findings highlighted the safety implications of the use of temporary and labour hire work in the transport industry.

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<sup>19</sup> Worthington, E. and McDonald, A., 'Tip Top drivers being 'worked to death' as families call for greater responsibility', (5 December 2017) ABC News.

<sup>20</sup> Worthington, E. and McDonald, A., 'Tip Top accused of pushing bread delivery drivers to breaking point' (6 November 2017) ABC 7.30.

<sup>21</sup> Worthington, E. and McDonald, A., 'Tip Top trucks deemed defective after inspections reveal safety issues' (1 December 2017) ABC News.

<sup>22</sup> Australian Senate Rural and Regional Affairs and Transport Committee, 'Aspects of Road Safety in Australia' Inquiry, October 2017, Chapter 2 at 2.4.

Dr Jim Stanford and Senior Economist Matt Grudnoff have noted the impacts of the increased use of insecure work in the transport industry:

“The chronic weakness in labour markets in recent years (especially severe since the Global Financial Crisis of 2008-09) has therefore contributed to the expansion of nonstandard or precarious employment arrangements, through a process of cumulative causation. An initial shortage of jobs reshapes the interactions between workers and employers, allowing employers to recruit sufficient labour despite offering unpredictable and insecure arrangements. The success and replicability of this strategy in turn leads employers to expand their use of flexible staffing models, including through new business tools and practices (such as outsourcing labour hire, using automatic or digital rostering systems, and more) organised to optimise the use of irregular work. This in turn further reduces the pressure for employers to offer permanent, full-time positions – which reinforces the initial weakness in aggregate labour demand that sparked the initial shift in practices.”<sup>23</sup>

Dr Stanford and Grudnoff cited further research showing that insecure or transitory work has a range of negative outcomes “in areas of skill acquisition, retention and turnover of employees, and health and safety outcomes”, including in the transport sector.<sup>24</sup>

Clearly, and particularly in the transport industry, the increasing use of temporary and labour hire work can and does lead to dangerous outcomes.

The most dangerous industry in the country must be underpinned by standards that mean that every worker - and road user - returns home safely at the end of the day.

### **The on-demand economy**

Workers in the on-demand economy are exposed to significant risk of injury and death while at work, particularly in the road transport sector.

This situation must change. Companies must be held responsible for the health and safety of all of their workers, regardless of the ‘label’. We urgently need regulation that sets appropriate standards that are adequately enforced.

Passenger vehicle drivers and food delivery riders working for companies such as Uber, Deliveroo, foodora and UberEATS are at constant risk.

Uber driver Saeed Shah was brutally assaulted and robbed while at work in Melbourne. The attackers thrashed him for several minutes before driving away in his car, with Uber refusing to help with medical bills or the loss of his car.<sup>25</sup>

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<sup>23</sup> Stanford, J. and Grudnoff, M., ‘The Future of Transportation Work: Technology, Work Organization, and the Quality of Jobs’, January 2018, p.52.

<sup>24</sup> Stanford, J. and Grudnoff, M., ‘The Future of Transportation Work: Technology, Work Organization, and the Quality of Jobs’, January 2018, p.27.

<sup>25</sup> Grewal, P., ‘Melbourne Uber driver too scared to return to work’ (SBS) 4 February 2018.

In a 2018 survey of 160 riders in Sydney and Melbourne, 45% said that they or someone that they know had been hurt on the job.<sup>26</sup> Riders work in all weather conditions and are remunerated pursuant to an incentive-based system, with inadequate training and protections only adding to the severity of the situation.

In February 2018, Channel 10's The Project aired a story interviewing food delivery riders that had been attacked, abused and injured at work. The Project also told the story of Julien Trameaux, a rider for UberEATS who was killed on the job in Sydney in 2017. Julien dreamed of one day opening a French bakery in Sydney. His family received a five line letter of condolence from UberEATS that his former housemate Leo Villaume described as "a waste of paper, disgusting, disrespectful."<sup>27</sup>

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<sup>26</sup> <http://www.twu.com.au/on-demand-workers-survey/>

<sup>27</sup> 'The Project', Channel 10, 25 February 2018.