

Road Safety Remuneration System

Background to the legislation

- 2.1 As noted in paragraph 1.2, the bills implement a national Road Safety Remuneration System for drivers in the road transport industry. The stated purpose of the Road Safety Remuneration System is ' ... to tackle speed, fatigue and dangerous work practices in the trucking industry – to make Australia's roads safer for all drivers.'¹
- 2.2 The bills were introduced into the House of Representatives by Minister Albanese. In the conclusion of his second reading speech, the Minister noted that:

This bill is the government's response to the report of the National Transport Commission that I commissioned when I became the transport minister, but it is also in response to numerous reports over many years, including the *Burning the midnight oil* report, which was done by the House of Representatives committee, chaired by the member for Hinkler, who is in the chamber today. This has been an issue which has been talked about for a long time, but not acted upon until today.²

1 The Hon. Mr Anthony Albanese MP, Minister for Infrastructure and Transport and the Hon. Senator Chris Evans, Minister for Tertiary Education, Skills, Jobs and Workplace Relations, 'Road Safety Bills', *Media Release AA215/2011*, 22 November 2011.

2 The Hon. Mr Anthony Albanese MP, Minister for Infrastructure and Transport, *House of Representatives Hansard*, 23 November 2011, p. 13538.

- 2.3 The 2008 NTC *Safe Payments* report, referred to by Minister Albanese in his second reading speech, was commissioned by the Australian Transport Council (now known as the Standing Council on Transport and Infrastructure), to provide an evaluation, with recommendations, for the improvement of truck driver payment methods, working conditions and career structures to address safety issues.³
- 2.4 The *Safe Payments* report provided a conclusive statement as to the existence of the link between rates and methods of remuneration and poor safety outcomes, and further stated that, for the first time, the incentives behind safety issues would be addressed when targeting on-road behaviour.⁴ The report concluded that safe payments are an important step for the future of the road transport industry.⁵
- 2.5 The NTC recommended the development of a national framework for the establishment and maintenance of safe payments for employees and owner drivers.⁶
- 2.6 In response to the *Safe Payments* report, and in order to build on the recommendations made in it, DEEWR sought to consult with road transport industry stakeholders to develop possible models for reform.⁷ As part of this process, the Safe Rates Advisory Group (SRAG) was established to provide expert road transport industry advice to DEEWR on policy options for national reform.⁸
- 2.7 This advice resulted in the *Safe Rates, Safe Roads Directions Paper*, which examined the recommendations of the *Safe Payments* report and outlined options for national legislation covering employees' and independent contractors' work, considering impacts on safety, productivity, efficiency and employment levels in the road transport industry.⁹
- 2.8 The *Safe Rates, Safe Roads Directions Paper* proposed options for models of a national tribunal, all with the power to make orders regarding safe rates and related terms in the road transport industry.

3 NTC, *Safe Payments* report, October 2008, Foreword.

4 NTC, *Safe Payments* report, October 2008, Foreword.

5 NTC, *Safe Payments* report, October 2008, p. 47.

6 NTC, *Safe Payments* report, October 2008, pp. 40 and 46.

7 DEEWR, *Safe Rates, Safe Roads Directions Paper*, 2010, p. 3.

8 DEEWR, *Safe Rates, Safe Roads Directions Paper*, 2010, p. 4 and Appendix 2.

9 DEEWR, *Safe Rates, Safe Roads Directions Paper*, 2010, pp. 8 and 28.

- 2.9 The Department sought public comment on its *Safe Rates, Safe Roads* Directions Paper, and received submissions from 45 parties using and affected by the road transport industry.
- 2.10 Of the 45 submissions, 21 supported the establishment of a tribunal with power to set remuneration rates and related conditions for employees, owner drivers and the supply chain,¹⁰ a form of which is proposed in the bill. Fourteen submissions preferred a status quo approach, and ten submissions supported the introduction of a voluntary system of payments for owner drivers and chain of responsibility arrangements.¹¹
- 2.11 Issues and opinions arising from the public consultation included:
- that current and proposed regulatory regimes should be given a chance to work before a new system is introduced;
 - support for the enforcement and development of current regulatory regimes;
 - that it must be made clear how any new system would interact with current and proposed regimes;
 - that there must be no duplication of regulation;
 - suggestions for how a tribunal should calculate safe rates, incorporating all fixed and variable costs;
 - issues that a tribunal should address, such as unpaid waiting times, 'backloading' rates, payment terms and driver cost recovery;
 - concern about the impact increased rates might have across the road transport industry, including decreases in market demand for smaller rural transport operators, and increases in compliance costs;
 - that the legislation should bind all industry participants, including those in the supply chain;
 - that independent contractors should be governed by commercial law and employees by industrial relations law;

10 PriceWaterhouseCoopers Australia, *Road Safety Remuneration System: Regulatory Impact Statement* (RIS), October 2011, pp. 4 and 53, <<http://ris.finance.gov.au/files/2011/11/03-Safe-Rates-RIS1.pdf>> viewed 23 February 2012.

11 PriceWaterhouseCoopers Australia, RIS, October 2011, pp. 4 and 53, <<http://ris.finance.gov.au/files/2011/11/03-Safe-Rates-RIS1.pdf>> viewed 23 February 2012.

- that modern Awards and contract determinations already address minimum rates of pay in the industry, and the Independent Contractors Act addresses safe rates for owner drivers;
 - alternative ways of improving safety to a safe payments system, such as making demurrage payments mandatory, an enforceable code of practice, licensing systems, and mandatory safe driving plans; and
 - requests for continuing consultation in the development of any proposed national safe payments system, including in the drafting of the legislation.
- 2.12 Support for a tribunal approach came from unions such as the Australian Council of Trade Unions (ACTU) and the Transport Workers' Union of Australia (TWUA), individual drivers and driver groups, including the Australian Road Transport Industrial Organisation (ARTIO).¹²
- 2.13 Preference for a status quo approach came from industry groups and employer representatives, including the Australian Chamber of Commerce and Industry (ACCI), the Australian Trucking Association and the South Australian Road Transport Association.¹³
- 2.14 Support for the introduction of a voluntary system came from the Australian Industry Group (AIG) and the Australian Logistics Council (ALC).¹⁴
- 2.15 The state governments expressed different views. The New South Wales Government and South Australian Government (represented by SafeWork SA) supported a mandatory tribunal approach, the Western Australian Government supported the introduction of a voluntary system, and the Queensland Government withheld its support for any option pending further economic analysis.¹⁵
- 2.16 The SRAG was recalled in October 2011 to assist the Federal Government with finalising its response to the *Safe Rates, Safe Roads* Directions Paper
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12 PriceWaterhouseCoopers Australia, RIS, October 2011, p. 53, < <http://ris.finance.gov.au/files/2011/11/03-Safe-Rates-RIS1.pdf> > viewed 23 February 2012.

13 PriceWaterhouseCoopers Australia, RIS, October 2011, p. 53, < <http://ris.finance.gov.au/files/2011/11/03-Safe-Rates-RIS1.pdf> > viewed 23 February 2012.

14 PriceWaterhouseCoopers Australia, RIS, October 2011, p. 53, < <http://ris.finance.gov.au/files/2011/11/03-Safe-Rates-RIS1.pdf> > viewed 23 February 2012.

15 PriceWaterhouseCoopers Australia, RIS, October 2011, p. 53, < <http://ris.finance.gov.au/files/2011/11/03-Safe-Rates-RIS1.pdf> > viewed 23 February 2012.

and the feedback received, resulting in the Road Safety Remuneration System and consequent legislation.

Issues arising in the inquiry

Introduction

- 2.17 Several issues of concern to the industry which had arisen during the public consultation process for the *Safe Rates, Safe Roads* Directions Paper resurfaced in submissions provided to this inquiry, and at the public hearing. These are reflected in the main issues that arose throughout the inquiry, as follows:
- the link between remuneration and road transport safety;
 - the jurisdiction and interaction with other laws and initiatives in the road transport industry; and
 - the challenges of a safe rates system.
- 2.18 The submissions overall took one of two approaches, the first being to comment on road safety in the road transport industry and how it should be improved, the second being to comment on the bill and make suggested changes. Some submissions combined the two approaches.
- 2.19 A common theme that emerged from the submissions and evidence received at the public hearing was the paramount importance of safety in the road transport industry. The methods by which safety could be improved, including by the introduction of the bills, were the contested elements of the inquiry.
- 2.20 The general view that arose in opposition to the bill was that the Tribunal would add an unnecessary layer of regulation, when other measures and laws were already adequately placed to improve safety.
- 2.21 The general view that arose in support of the bill was that the Tribunal was needed to improve safety in the industry, most notably through increasing driver payments.
- 2.22 The Department discussed the intention of the bill as being to complement the range of other measures the Federal Government was taking, and stated that:
- ... what this bill does is address an element of this industry which is not necessarily addressed by those other mechanisms, and that

is the linkage between remuneration and safety practices in the road transport industry.¹⁶

- 2.23 The ACTU agreed with this statement by saying that '... the Bill represents the only initiative that is specifically targeted at the industry's economic factors that influence and incentivise drivers to take risks.'¹⁷
- 2.24 Of all the issues raised in evidence, the link between remuneration and safety was undoubtedly the most prominent.

The link between remuneration and safety

- 2.25 The bill is premised on the assumption that there is a proven causal connection between remuneration and safety. There are mixed views on whether this link has been definitively established.
- 2.26 Many submitters supported this link, including Professor Michael Quinlan, School of Organisation and Management, University of New South Wales. Professor Quinlan has been involved in research into occupational health and safety (OHS) for over 30 years, with his research focusing on how work organisation affects OHS. Professor Quinlan has published research on OHS in the trucking industry since 1997, including a number of reports commenting on the link between remuneration and safety.¹⁸ Professor Quinlan is strongly supportive of the legislation and the establishment of the Tribunal as it '... most clearly addresses the issues raised by the connection between remuneration and safety and provides an entirely workable mechanism for remedying these problems ...'¹⁹
- 2.27 As stated by Mr Michael Kaine, National Assistant Secretary of the TWUA, in his evidence to the inquiry: 'There is not a dearth of evidence; there is an avalanche of evidence in support of this bill.'²⁰

16 Mr Kovacic, DEEWR, *Committee Hansard*, Canberra, 15 February 2012, p. 24.

17 Australian Council of Trade Unions, *Submission 13*, p. 3.

18 M Quinlan FSIA and L Wright QC, *Remuneration and Safety in the Australian Heavy Vehicle Industry: A Review undertaken for the National Transport Commission*, October 2008, <<http://www.ntc.gov.au/filemedia/Reports/RemunSafetyAustHVIndustryNov08.pdf>> viewed 22 February 2012; M Quinlan, *Report of Inquiry into Safety in the Long Haul Trucking Industry*, November 2001, <<http://www.maa.nsw.gov.au/getfile.aspx?Type=document&ID=44257&ObjectType=3&ObjectID=3901>> viewed 22 February 2012.

19 Professor Michael Quinlan, *Submission 1*, p. 17.

20 Mr Michael Kaine, National Assistant Secretary, Transport Workers' Union of Australia (TWUA), *Committee Hansard*, Canberra, 15 February 2012, p. 2.

- 2.28 The TWUA stated, in its supplementary submission, that ‘ ... there is empirical evidence (Belzer et al.) that an increase in rates to driver will result in lowering of crash rates and a reduction in the time a driver will choose to spend on the road ... ’²¹
- 2.29 Professor Michael Belzer, from the Department of Economics, Wayne State University in the United States, is a former professional truck driver, and a scholar with expertise in researching and writing reports on issues associated with trucking operations and truck driver OHS in the United States. Professor Belzer provided a submission to the inquiry, in which he said that:

My research supports the hypothesis that economic deregulation led to heightened competition in the trucking industry, and that while this has resulted in some economic efficiencies, it also has resulted in a substantial decline in truck driver compensation. The increased competition has put substantial stress on commercial motor vehicle operators, and this stress is associated with greater crash risk ... Our research has shown that the lower compensation levels caused by this competition also is associated with greater crash risk. This suggests that while higher pay and lower driver stress leads to safety, the inability of motor carriers to maintain high levels of compensation continues to lead to negative safety and health outcomes. This is evidence of a market failure.²²

- 2.30 The Regulatory Impact Statement (RIS), prepared for DEEWR and presented with the bill, refers to the international evidence supporting the link between remuneration and safety:

There is some research to suggest that the remuneration for drivers is a factor in safety outcomes, however data at this point in time is limited and being definitive around the causal link between rates and safety is difficult. International research has found a correlation between remuneration and safety performance, particularly where very low levels of remuneration are concerned (Rodriguez et al 2006, Nafuko et al 2007 and Belzer et al 2002). An Australian study found that drivers paid by a ‘payment-by-results’ method were twice as likely to report being fatigued on at least

21 TWUA, *Supplementary Submission 12.1*, p. [1].

22 Professor Michael Belzer, *Submission 8*, p. [4].

half of their trips than drivers paid an hourly rate (Williamson et al 2001).²³

- 2.31 The link between remuneration and safety was not supported by some inquiry participants, including the ALC and the AIG. The ALC stated in its submission that the RIS did not support a definitive link between remuneration levels and safety outcomes, and said that the Tribunal should not be established until that link could be proven.²⁴ When questioned at the hearing as to whether the ALC had done any of its own research on the link between road accidents and causes of accidents, Mr Michael Kilgariff, Managing Director, confirmed that it had not.²⁵
- 2.32 The AIG similarly based its objection on a statement made in the RIS (as reproduced above). When questioned at the hearing on its position held prior to the introduction of the bill, and therefore the production of the RIS, Mr Brent Ferguson, Senior Advisor Workplace Relations at AIG stated that:

I think we take the view that the causes of unsafe outcomes in the road transport industry are probably multifaceted. I think we have already heard this afternoon discussion about the fact that, in many instances, incidents of unsatisfactory road safety outcomes may be the fault of the driver of a car rather than a trucking operator. What we have taken issue with is that we do not believe that altering remuneration or remuneration-related conditions can satisfactorily rectify all of those road safety outcomes.²⁶

- 2.33 Mr Ferguson further stated that:

... if the Tribunal results in increased remuneration then arguably drivers may wish to work longer hours in order to gain the benefits of that remuneration. Alternatively they may continue on with whatever unsafe practices they are currently engaging in and simply reap greater rewards ...²⁷

- 2.34 The National Road Transport Operators Association (NatRoad) commented that the Tribunal was being established under circumstances
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23 PriceWaterhouseCoopers Australia, RIS, October 2011, pp. 3-4 and 69, < <http://ris.finance.gov.au/files/2011/11/03-Safe-Rates-RIS1.pdf> > viewed 23 February 2012.

24 Australian Logistics Council (ALC), *Submission 21*, pp. 4 and 7.

25 Mr Michael Kilgariff, Managing Director, ALC, *Committee Hansard*, Canberra, 15 February 2012, p. 19.

26 Mr Brent Ferguson, Senior Advisor Workplace Relations, Australian Industry Group (AIG), *Committee Hansard*, Canberra, 15 February 2012, p. 13.

27 Mr Ferguson, AIG, *Committee Hansard*, Canberra, 15 February 2012, p. 14.

in which the extent of any link between remuneration and safety had not been conclusively proven.²⁸ Independent Contractors Australia also rejected the link between pay rates and road transport safety.²⁹ The ACCI continued to:

... express its concern that the underpinning premise of the legislative proposals is that community safety outcomes, such as reduced injuries and fatalities on Australian roads, can be enhanced through better remuneration and conditions for drivers.³⁰

- 2.35 The Australian Trucking Association of NSW suggested a full and comprehensive RIS be made to fully establish any link between remuneration and safety and the full impact on the supply chain including the broader community, as a way to deliver enhanced safety and fairness across the road transport industry.³¹
- 2.36 The Committee considers that there is sufficient evidence to establish the link between remuneration and safety. In addition, the Tribunal will have the power to investigate into the issues that are brought before it, and will have done so prior to preparing its annual work program. The Tribunal will also, if it wishes, have the power to investigate whether or not there is a clearly identifiable or provable link between remuneration and safety in relation to specific issues before it.

Jurisdiction and interaction with other laws and initiatives in the road transport industry

Drivers covered by the bill

- 2.37 Questions arose throughout the inquiry as to the extent of the bill's coverage. The bill applies to all employed and self-employed drivers in the road transport industry. The Department noted that, due to constitutional limitations, it will initially cover approximately 80% of employees and 60% of owner drivers, with the Federal Government intending to expand coverage by exploring the possibility of referrals of power from state governments.³²

28 National Road Transport Operators Association (NatRoad), *Submission 14.1*, p. 12.

29 Independent Contractors Australia, *Submission 4*, p. [1].

30 Australian Chamber of Commerce and Industry (ACCI), *Submission 19*, p. [1].

31 Australian Trucking Association NSW, *Submission 18*, pp. [1]-[2].

32 Mr Kovacic, DEEWR, *Committee Hansard*, Canberra, 15 February 2012, p. 23; DEEWR and the Department of Infrastructure and Transport (DIT), *Submission 24*, p. 6.

2.38 The ALC described the extension of the bill to couriers and cash in transit industries as a 'jurisdictional creep'.³³ When asked at the hearing as to why couriers should be excluded from the ambit of the bill, Mr Kilgariff explained that:

... the deliberations of the safe rates working group and also the work that was undertaken by the National Transport Commission did not cover courier drivers. It was basically restricted to long-haul drivers. Now under the legislation it is quite clear that the scope of the tribunal could go right to the services provided by courier drivers, which in our view has never been part of the debate to date.³⁴

2.39 The Civil Contractors Federation (CCF) commented that the jurisdictional extension to owner drivers was an undesirable policy development.³⁵ NatRoad suggested that the Tribunal should not seek to establish minimum remuneration rates for sub-contract drivers.³⁶ The Post Office Agents Association Limited (POAAL) stated that it was unlikely that the bill would improve road safety for mail contractors.³⁷

2.40 The AIG submitted that employee drivers should not be subject to the bill as they are already protected under the Fair Work Act.³⁸

2.41 Some parties suggested that state-based legislation dealing with the same issues as the bill be repealed. The ALC took the view that the bill should be amended so that it dealt, so far as constitutionally possible, with remuneration issues relating to heavy vehicle drivers, to the exclusion of state laws currently in place.³⁹

2.42 In support of the broad coverage of the bill in relation to all types of drivers in the road transport industry, Mr Tony Sheldon, National Secretary of the TWUA, stated that:

... the essence of the bill goes to the entire transport sector and includes a number of areas of the transport sector that apply, whether it is long distance or short haul. There are inquiries and

33 ALC, *Submission 21*, p. 11.

34 Mr Kilgariff, ALC, *Committee Hansard*, Canberra, 15 February 2012, p. 18.

35 Civil Contractors Federation (CCF), *Submission 23*, p. [8].

36 NatRoad, *Supplementary Submission 14.1*, p. 23.

37 Post Office Agents Association Limited (POAAL), *Submission 20*, p. 3.

38 AIG, *Submission 17*, pp. 19 and 47.

39 ALC, *Submission 21*, p. 12.

statements about both of those sectors and there are inquiries that we are able to furnish regarding the cash in transit industry ...⁴⁰

- 2.43 The Committee understands the concerns of inquiry participants as to the intent of the bill to eventually cover all drivers in the industry. The Committee is concerned, however, that partial coverage may cause confusion in the industry as to which drivers will be under the jurisdiction of the Tribunal. The Committee acknowledges the Department's intention to consult with state and territory governments with a view to making arrangements for referral of powers as soon as possible, so as to limit any confusion amongst industry participants.

Interaction with other laws and initiatives

- 2.44 Mr Kovacic, Deputy Secretary, DEEWR, described the intent of the bill as being complementary to the range of other measures the Federal Government is undertaking:

The National Heavy Vehicle Regulator is one of those initiatives but there is a range of other factors. Investment in roads and those sorts of issues, the changes to the work health and safety laws, the establishment of harmonised laws – they are all factors which collectively can impact on safety in the road transport industry as well as in some other industries. But clearly what this bill does is address an element of this industry which is not necessarily addressed by those other mechanisms, and that is the linkage between remuneration and safety practices in the road transport industry ... Indeed we were very conscious of ensuring that the provisions of this bill very much complemented all of those other sorts of measures. The National Heavy Vehicle Regulator was a particular area of focus in terms of ensuring that complementarity.⁴¹

- 2.45 The ACCI was concerned that the bill would create significant overlap with existing laws, and further that:

... the Government has proceeded by introducing the legislative measures without the co-operation of states and territories and

40 Mr Tony Sheldon, National Secretary, TWUA, *Committee Hansard*, Canberra, 15 February 2012, p. 3.

41 Mr Kovacic, DEEWR, *Committee Hansard*, Canberra, 15 February 2012, p. 24.

without awaiting the commencement of a range of agreed national industry specific initiatives and strategies.⁴²

- 2.46 The clearly stated intention of the bill is that it will work concurrently with other laws and safety initiatives in the industry and that the Tribunal will take these into account when carrying out its duties. The Department confirmed that any decisions made by the Tribunal are intended to complement other laws and initiatives in the road transport industry.⁴³

Challenges of a safe rates system

- 2.47 In the course of its inquiry, the Committee heard different views on the implications of a safe rates system across the industry. Some inquiry participants proposed alternative safety initiatives, and concerns about the complexity of the new safe rates system were discussed.

Application across the industry

- 2.48 A common view expressed by small transport operators and owner drivers was that other measures would be more valuable to them than imposing a safe rates system across the industry.
- 2.49 Mr Russ Martin, a transport operator based in Queensland and a delegate of the National Road Freighters Association (NRFA), submitted that it would be 'nigh on impossible' to set a safe rate, as the transport industry has so many varied operations.⁴⁴ Mr Martin observed that a maximum 14 day payment period and paid waiting time to unload would be most valuable.⁴⁵ Mr Martin further said that there is a need for regulation of some type in the long haul subcontract industry.
- 2.50 Mrs Terrie Bradley, an owner operator and Secretary of the NRFA from Queensland, did not support a safe rates system across the industry, and stated that the implementation of a safe rate would only serve to disadvantage those who 'work for the right rates now'.⁴⁶ Mrs Bradley further stated that it would be 'nearly impossible to make a "safe rate" across the board as there are so many different facets of our industry'.⁴⁷

42 ACCL, *Submission 19*, p. [1].

43 DEEWR and DIT, *Submission 24*, p. 6.

44 Mr Russ Martin, *Submission 16*, p. [1].

45 Mr Russ Martin, *Submission 16*, p. [1].

46 AJ & T Bradley, *Submission 11*, p. [1].

47 AJ & T Bradley, *Submission 11*, p. [1].

- 2.51 Mr Ricky Finning, Vice President of the NRFA, had a similar view to Mrs Bradley, in that all transport businesses who kept their freight rates at a sustainable viable rate would have trouble doing so when the safe rates scheme is introduced.⁴⁸
- 2.52 The Long Haul Drivers Association suggested that there was no future in regulating rates for owner drivers who did not have the skills to successfully operate a small business.⁴⁹
- 2.53 The ALC stated that the Tribunal was '... an unnecessary extra layer of regulation, when there are already a range of regulatory and non-regulatory schemes in place that adequately deal with driver safety.'⁵⁰
- 2.54 The Committee understands that the Tribunal will make decisions and RSROs that are applicable to different parts of the industry, and that relate to different issues that arise in the industry. This will depend on the issues it has identified in its work program, or issues that are raised in application to the Tribunal by relevant parties.
- 2.55 Whilst the Committee understands the concerns of some submitters that a 'safe rate' could not be set across the industry, and that the rates set might not be sustainable, the Committee is satisfied that the legislation allows the Tribunal to be cognisant of these and other issues raised for its consideration. The Committee understands that the legislation will allow the Tribunal to consider, in the making of a RSRO, supporting evidence, and the effects it may have on all participating, and potentially affected, parties, whether in or outside the industry.

Alternative safety initiatives and complexity

- 2.56 Alternative ways to improve safety in the road transport industry were raised in submissions. Many echoed those raised in the consultation process with DEEWR prior to the introduction of the bills.
- 2.57 The ALC suggested that:
- ... if there were to be changes made to the heavy vehicle national law that is currently being developed, we believe that the safety issues that are proposed to be covered by this law should be picked up by the National Heavy Vehicle Regulator.⁵¹

48 Mr Ricky Finning, *Submission 5*, p. [1].

49 Long Haul Drivers Association, *Submission 2*, p. [2].

50 Mr Kilgariff, ALC, *Committee Hansard*, Canberra, 15 February 2012, p. 16.

51 Mr Kilgariff, ALC, *Committee Hansard*, Canberra, 15 February 2012, p. 20.

- 2.58 The ACCI similarly argued that the Federal Government should progress safety enhancing objectives through agreed national initiatives, including the National Heavy Vehicle laws, and other industry-specific occupational health and safety laws and codes of practice.⁵²
- 2.59 The ALC, noting its opposition to the bill, observed that the NHVR will come into effect from 1 January 2013. Mr Kilgariff claimed that the regulator 'will bring a greater national focus to key safety initiatives such as the chain of responsibility and fatigue management.' Mr Kilgariff further stated that the laws 'need to be given time to be implemented and bedded down.'⁵³
- 2.60 The AIG adopted a similar view to the ALC. Mr Michael Mead, the National Manager, Advocacy & Policy, described the safe rates system, as proposed in the bill, as 'counterproductive' to a range of other new measures, including the NHVR. Mr Mead stated that:
- Ai Group supports the regulatory impact statement's assessment that such laws are currently being bedded down, so further improvements in safety can be expected. These initiatives should be given time to work and their effectiveness assessed before an entirely different approach, as contemplated in the bill, is introduced. The system delivered by the bill will distract government and industry attention away from measures which are directly targeted at improving safety.⁵⁴
- 2.61 Mr Ferguson supported Mr Mead's opening remarks:
- We would say that in order to come to the conclusion that it is not working, the new laws that have been relatively recently introduced which could have an impact on safety, such as the chain of responsibility laws as they are implemented in various jurisdictions around Australia, should be bedded down and given an opportunity to work.⁵⁵
- 2.62 In response to a question on notice from the Committee regarding a definition of 'bedding down', the AIG stated that those subject to the laws needed a sufficient period of time to enable them to come to terms with

52 ACCI, *Submission 19*, p. [2].

53 Mr Kilgariff, ALC, *Committee Hansard*, Canberra, 15 February 2012, p. 16.

54 Mr Michael Mead, National Manager, Advocacy & Policy, AIG, *Committee Hansard*, Canberra, 15 February 2012, p. 12.

55 Mr Ferguson, AIG, *Committee Hansard*, Canberra, 15 February 2012, p. 14.

such provisions and to implement associated changes in their practices, and further said:

It is difficult in precise terms to articulate the length of time that should be given for the 'bedding down' of such laws before their effectiveness is considered given that, as outlined above, there are numerous new regulatory responses to addressing safety. Further, the necessary time frame would also be subject to variables such as the level of government support for educating and enforcing these schemes. It would also be somewhat premature to state a time given that the enactment of some of these laws is still being finalised.

The new harmonised Workplace Health & Safety laws are only partly in place ... COAG has recommended that a review of the laws take place after they have been in operation for five years ... At the very least, any review of the effects of the existing laws should not occur prior to 2018. This will allow any COAG review of the nationally harmonised Workplace Health and Safety laws to occur, and provide a period of five years for the National Heavy Vehicle Law to operate.⁵⁶

- 2.63 The POAAL suggested the need for better contracts to address penalties for unreasonable waiting times, and that an industry code of conduct could address the contract negotiation issues.⁵⁷
- 2.64 The Queensland Government reiterated its argument made in its submission to the *Safe Rates, Safe Roads* Directions Paper, saying that safety in the road transport industry is 'multi-factorial' and should be addressed with a number of intervention strategies, and it did not believe that safe rates were likely to encourage safe work practices.⁵⁸
- 2.65 The CCF noted that '... improving road safety requires a holistic approach rather than being based on a narrow focus upon the method and quantum of remuneration.'⁵⁹
- 2.66 Mr Noel Porter, the owner of Porter Haulage Pty Ltd from Victoria, suggested that uniform regulation across state borders needed to be addressed first.⁶⁰

56 AIG, *Supplementary Submission 17.1*, p. [3].

57 POAAL, *Submission 20*, pp. 5-6.

58 Queensland Government, *Submission 22*, p. [1].

59 CCF, *Submission 23*, p. [5]; AIG, *Submission 17*, pp. 9-11.

60 Porter Haulage Pty Ltd, *Submission 28*, p. [2].

- 2.67 Different sectors of the industry were concerned about the likelihood that the bill would introduce further complexity and cost into an industry that was already heavily regulated. The CCF stated that the RIS should provide a proper analysis of the additional compliance and administrative burden imposed by the legislation, and that further elaboration of a number of statements made in the RIS would be helpful.⁶¹
- 2.68 Mr Ken Wilkie has been an owner operator since 1974 and is a Queensland delegate of the NRFA. In his submission, Mr Wilkie stated that:
- ... a major cost to small operators is the complicated compliance requirements currently demanded by government and its agencies
...
- I object to having an outside entity directing what that entity considers to be a safe return on my effort. The costs of operation within the industry vary considerably between types of operation.⁶²
- 2.69 In his submission, Mr Ross Ingram, a Director of Bonaccord Freight Lines from Victoria, observed that 'industry needs one set of rules to comply with, not seven and it needs to be simple to understand and written in language that is easy to interpret.'⁶³

61 CCF, *Submission 23*, pp. [10]-[11].

62 Mr Ken Wilkie, *Submission 25*, p. [1].

63 Bonaccord Freight Lines Pty Ltd, *Submission 26*, p. [2].