



Submission

Inquiry into Managing Fatigue
In Transportation

**House of Representatives
Standing Committee on Communications,
Transport and the Arts**

Prepared by

Dean Croke

Allianz Risk Consultants of Australasia

MMI General Insurance Limited
ACN 000 122 850

Allianz Australia

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Introduction

This submission has been designed to highlight the broader macro economic activities of the road transport industry and how they are impacting on the issue of driver fatigue. The same financial management principals will apply to the air, sea and rail industries; therefore this submission will not attempt to address fatigue within the individuals modes of transport. It will however, clearly outline the key drivers of unsafe work practices which will be applicable to all modes.

As MMI in Australia does not specialise in other forms of transport to the degree it does in road transport, this submission will largely focus on issues that relate specifically to the road sector.

1.0 Causes of and contributing factors to, fatigue and related factors.

The committee has received numerous submissions that explain fully the more obvious causes of driver fatigue using well-documented scientific research. We note in particular the submissions by Associate Professor Laurence Hartley and Professor Drew Dawson where the causes of and contributing factors to fatigue are adequately explained.

It is our contention that driver fatigue is an outcome, along with many others, of the overall viability of the individual business and to a larger extent, the viability of the particular industry.

Through the use of case studies involving transport operators and the analysis of the economic performance of the road transport sector, we will demonstrate that in order to effectively manage driver fatigue levels, factors other than fatigue management must first be addressed.

1.1 Macro Economic Issues.

The road transport industry in Australia has changed significantly over recent years through the combined effects of lower inflation, better roads, development of consistent national regulations, technology and economic recessions.

Some may argue the industry developed from a “black market” culture where lack of respect for laws which had little credibility, was common place in an environment when a developing Australian economy required a modern transport system. Overloading and excessive driving hours were considered important if economic viability was to be achieved.

Twenty years ago there was no need to operate B-Doubles when overloading was a viable option and sub-contractors would do twice the work of a company driver at half the cost. Finance was easily obtainable and like today, entry into the industry posed little barrier.

2000 sees a greatly matured industry which is largely focused on more strategic reform on matters such as competitive neutrality between transport modes, vehicle safety, road infrastructure, driver health, fatigue management and on road behavior of all motorists.

The industry is now positioning itself more strategically to address the issues that effect it most through self-initiated voluntary programs, which are effective alternatives to traditional means of enforcement.

Changes in the industry have not been without considerable cost. Many operators continue to operate without a clear understanding of their operating costs and struggle with added responsibilities such as Director Due Diligence and Duty of Care for employees.

Despite this, the Bureau of Transport and Communication Economics (1992) has documented that the road transport industry today is operating at world's best practice and that this has contributed enormously to Australia's international competitiveness.

There is, however, strong anecdotal evidence that this performance may have been at the expense of the viability of the road transport industry itself.

1.2 The Major Cause of Driver Fatigue

This submission identifies that the single most influential factor in driver fatigue levels is industry viability and profitability of individual businesses. Driver fatigue and all other safety related business outputs are all driven by the financial management of the business.

Put simply, if the business is viable and can afford to operate in a safe and profitable manner, then issues such as driver fatigue are easily addressed as vehicle and people utilisation levels will be at manageable levels.

It is the contention of MMI that the issue of driver fatigue will never be adequately addressed by focusing on the management of fatigue alone, as it is the financial position of the business that ultimately determines the safety related business outputs.

There are many factors which affect the viability of businesses in road transport. These are summarised below according to whether they are within the control of the business (internal issues) or outside the control of the business (external factors).

1.2.1 Internal Issues

Operations

- Lengthy loading and unloading times affecting utilisation and driver fatigue.
- Drivers failing to record actual loading and unloading time in logbooks.
- Insufficient fatigue management and scheduling practices in place.

Financial

- Owners not adjusting business strategies to cope with low inflation.
- High levels of gearing creating a comfort zone in the early years of equipment life cycles where running costs are lowest, which increase substantially with age.
- Return on capital employed not adequately factored into current rates.
- Investment in safety not adequately factored into current rates.

- Many operators (large and small) not having a good understanding of their operating costs and contributing to the industries rate problem through unsustainable rate setting strategies.
- Owner-Driver and Owner-Operator salaries grossly under-estimated in fixed costs.
- Unrealistic return on investment expectations by major freight forwarders and industry customers creating downward pressure on sub-contract rates.
- Lack of financial reporting through real time profit & loss reports and strategic planning within small business in road transport.
- Duplication of carriers liability insurance imposed on sub contractors (up to 2.5% of agreed rate) by prime contractors.

Technological

- Industry's willingness to pass on the majority of gains to customers (without productivity gains) resulting from such factors as increased vehicle capacity, improved technology, and increased access for higher capacity vehicles.

Management

- Small business unwillingness to adequately budget for marketing costs and accountancy fees.
- Industry's lack of knowledge of the OH&S Act and reported unsafe work practices and work environments resulting in a disproportionate number of injuries and deaths.
- The increasing trend towards self regulation through accreditation schemes and the attachment of regulatory benefits as a reward for effort principle.
- Competitive pressures from an oversupply of vehicles causing downward movement in rates.
- Industry's failure to market itself effectively to overcome the "derived demand" syndrome (demand for transport is derived from external transactions).
- Sales and Marketing strategies of major companies where the focus is on quantity of revenue, rather than quality creating a price driven market.

1.2.2 External Issues

Government

- Inadequate spending on road infrastructure to meet the growing demands of road transport.
- Inconsistent application of road transport law and regulations to both conventional operators and Government business enterprises.
- Inconsistent state government legislation and lack of national uniformity.

Regulation

- National Road Transport Commission (NRTC) proposed legislation on increased mass limits for heavy vehicles.
- Impending legislation from the NRTC to address Operator and Customer Due Diligence and Duty of Care in the workplace.
- Inconsistent transport regulations between states.
- Ineffective management of driving hours under current regulations.

Customers

- Industry customer's lack of understanding on the freight task performed by operators and willingness to take advantage of an over supplied market to drive down rates.

Business Costs

- Excessive levels of indirect taxation on operators, for example, diesel fuel excise.
- Operator costs continually rising disproportionately to revenue (freight rates).
- Industry based initiatives to improve safety and fatigue management, which impose a short-term cost to operators but deliver a longer-term benefit.
- Reform of the Australian Taxation system and impending implications of a GST on industry.

Competition

- Increasing competition from other transport modes such as sea (high-speed and traditional coastal shipping) and rail.
- Preferential treatment for those operators who have made the effort to obtain accreditation and adopt minimum standards.

While this list is by no means exhaustive, it is important to recognise that many of the factors are interactive and for some operators it may be the combined effect of a number of these, which effect their overall viability, or it may be the inexperience of the owner in managing the business in times of increasing competition. Either way, the factors need to be assessed individually. The cost implications they pose for a business requires strategies to be developed to assist operators to address these and improve their ability to remain competitive.

1.3 Financial Management

The ongoing financial management of business within the transport industry is an underestimated factor effecting long-term viability. As mentioned, operators in road transport are largely operations driven and have traditionally relied on historical data from the accounting profession as a means of measuring operating performance. This presents a challenge to the industry as this type of reporting often includes tax planning strategies but it does not adequately factor in the return on investment, and therefore does not present the true performance of the business.

There are four main contributing factors to poor financial management in road transport:

- industry dependence on accountants who have little or no understanding of the road transport industry as their only guide to business performance;
- transport operators not requesting that financial reports be presented in a meaningful way such as in "management account form" rather than traditional tax profit and loss format;
- transport operators dependence on historical data (end of financial year) to measure performance instead of more frequently reports as a management tool; and
- industry's inability to adequately interpret financial accounts produced by the accounting profession.

As a result of these factors, the industry generally has a poor understanding of how to adequately assess their costs.

1.4 The Current Position of the Australian Transport Industry

To effectively measure the actual performance of an industry, a different approach must be taken to traditional accounting practices which rely on tax driven profit and loss reports and balance sheets. The method (known as value adding) challenges the long held belief that profitability is a measure of the dollar profit of a business alone. The value-added approach looks at the relationship between the cost of capital and return on the assets used in the business.

1.4.1 Australia's Road Transport Value Adding Performance

This analysis regards a business as being viable when its Return on Net Operating Assets is equal to, or greater than that business's Weighted Average Cost of Capital. These two metrics are calculated from the financial statements of a business and from other market related statistical data from sources such as the Australian Stock Exchange.

To fund the purchase of operating assets and to provide working capital, a business has only two sources of finance – either use borrowed funds (debt capital) or use the owner's funds (equity capital). The prorated cost of debt (interest rate) and equity (yield on equity), expressed as a combined percentage rate, is called the weighted average cost of capital (WACC). Equity is always more expensive than debt because a business gets a tax deduction for interest paid, but no tax deduction for profits paid out to the owners. Most operators don't know what their required yield on equity funds is, let alone understand and calculate their own WACC.

A business uses its assets to operate and to produce profits. However, it is not just the level of profits which is critical to survival. A business must consider the value of the assets used to generate those profits.

The relationship between profits and net assets is called the Return on Net Assets (RONA) and is calculated by dividing the profit for a year (excluding interest which is a financing cost, not an operating cost) by the value of the net Assets used (working capital plus non-current assets).

For a business to survive over the medium and long term, its RONA must at least equal its WACC.

Where a business's RONA is less than its cost of debt (average interest rate on debt), the business has an immediate short-term problem. Most operators are acutely aware of the consequences of not meeting debt commitments – the debt provider will recall their funds (loans), often causing the failure of the business.

Unfortunately, most operators are equally unaware of the consequences of their business not generating a reasonable return on equity funds. The trap is that there are no fixed commitments associated with equity funds – if there is only a small profit to distribute, or no profit at all, no one is going to sell up the business, provided that the business has managed to meet its fixed debt servicing commitments.

However, in the medium and long term, failing to earn a RONA which is greater than WACC results in the erosion of the value of equity (owner's funds) because of inflation. Ultimately, the real value of equity falls to the point where banks refuse finance because the business has become too highly geared, which puts the business at risk of failure.

Typically, transport operators solve this problem by selling items of equipment in which they have considerable equity, but there is a limit to the operating assets a business can sell before its operating capacity is significantly affected.

In short, when operators are purchasing assets, they must separate the investment decision from the financing decision. The financing decision involves considering what mix of debt and equity funds will be used, from which they can calculate the WACC for the asset being purchased. This WACC becomes the break even RONA they must generate from the asset to ensure long term survival.

A business adds value to its stakeholders (banks and owners) when RONA exceeds WACC and conversely loses value when RONA is less than WACC. A business can only sustain losing value for the short term. In the medium and long term RONA must at least equal WACC.

This then is the "Return on capital" or "Value added approach" which must be used by operators to calculate their break-even rates if they are to survive over the medium and long term.

Analyzing Australia's road transport value adding performance uncovers some disturbing results. The following is an analysis (prepared by Rick Copping from accounting firm Pannell Kerr Forster) of 23,000 transport companies from the Australian Bureau of Statistics 1998 Business Performance Survey. Included in the study there are 23 companies who are classified as large companies with more than 200 employees (average number of employees 1,076) with the remaining classified as small to medium with an average employment size of 4.1 employees.

1.4.2 Small to Medium Enterprises (SME's)

Segmentation details

This segment includes all business units with less than 200 employees or less than \$200 million in assets. Therefore, this industry segment includes a very broad size range of road transport operators, ranging from the single truck owner-driver through to medium sized fleets of 100+ trucks. The nature of the operations of these two sub-segments is quite different.

In the main, the majority of work done by owner-driver type operators is as a subcontractor to a larger fleet. These operators are generally considered to be price takers in the market and subsequently have very little control over the freight rates they earn. It is generally accepted within the industry that this group of operators struggle to maintain viable operations on the income they earn.

Many of the medium sized operators provide specialised freight services such as bulk liquid freight, dangerous goods freight, over dimensional freight and local freight services. As a result of offering these specialised services, they have far more control over they freight rates they charge because of the reduced competition. For this reason it is expected that many of these operators would conduct significantly more profitable businesses than the owner-drivers.

For the viability of the quite different types of operators currently included in the SME industry segment to be properly analysed, the existing segment needs further dissection into two sub-segments, one for the owner driver type operator, and one for the balance of operators. This will require further research to be undertaken which is beyond the scope of this submission.

Segment viability comments

The graph indicates that the average operator has been trading viably in all years from 1992-93 through to 1997-98. Viability dropped significantly in 1994-95, but has improved steadily through to 1996-97 and decreased slightly in 1997-98.

The investment performance of a business is measured by the return on net assets (RONA). This is turn can be broken down into two further metrics, namely asset turnover and Net Operating Profit margin.

$$RONA = \frac{NOPAT}{Average\ Net\ Operating\ Assets\ (NOA)} = \frac{NOPAT}{Sales} \times \frac{Sales}{NOA}$$

Net Operating Profit Margin Asset Turnover

More detailed analysis shows that the average operators asset turnover has fallen steadily from 2.8 times in 1993-94 to 2.0 times in 1997-98. In other words, for every dollar an operator invests into assets, fewer sales are being generated. The balance sheet of the average operator shows a significant increase in the proportion of equity capital being used increasing from 47% of total capital employed in 1991-92 to 61% in 1997-98.

The combination of these two trends suggests that operators may not be including an adequate rate of return on equity capital in their freight rates. This is known to be common costing error made by many operators.

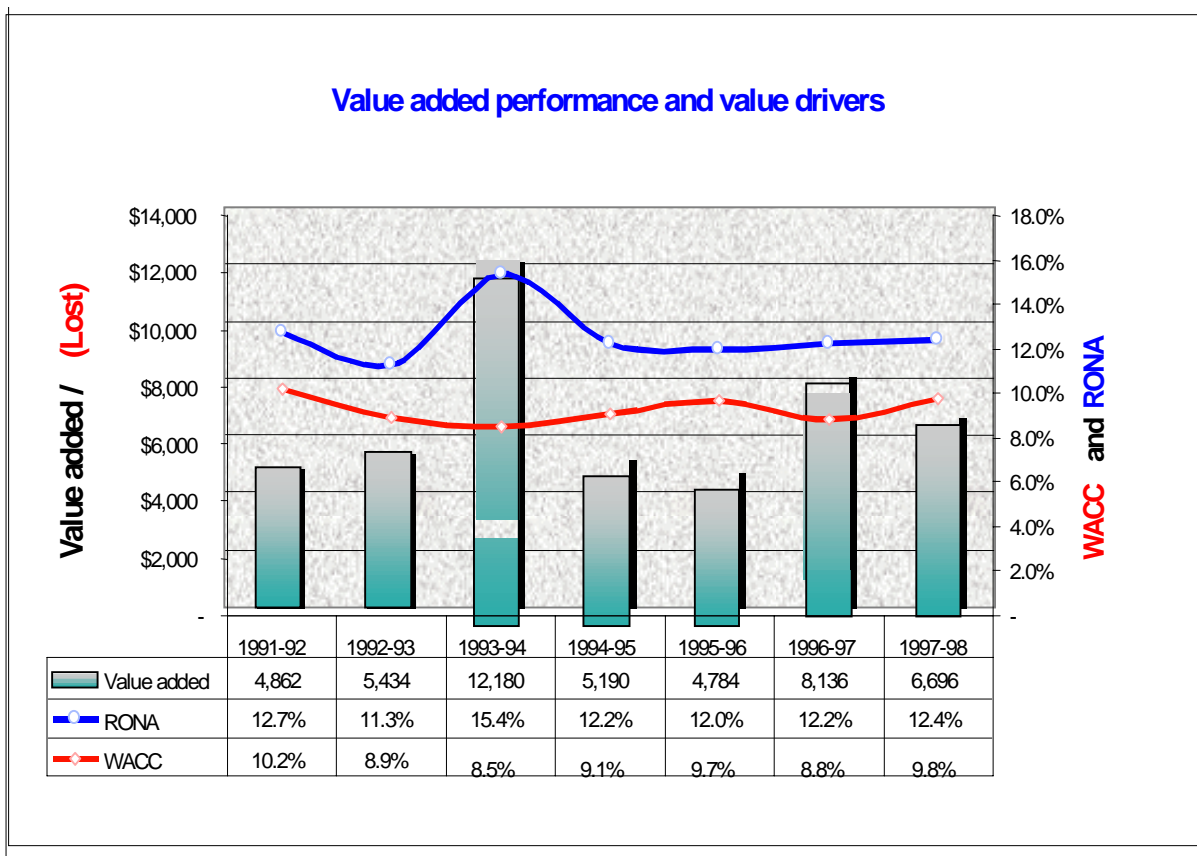
The average operator has improved their net operating profit margin from 7% in 1992-93 to 9% in 1997-98. This in turn has been driven by a reduction (as a percentage of sales.) in both cost of sales (direct truck operating costs) and labour costs.

The combination of these two metrics has resulted in a marginal improvement in the average operator's RONA since 1993-94.

Many operators have commented that they cannot cut costs any further without compromising the safety of their operations. This suggests that, unless freight rates can be improved, more and more operators will have their viability threatened which in turn may induce operators to further compromise the quality of their operations.

However, to properly analyse these trends, the SME segment must be further stratified as discussed previously.

Table 4: Small and medium sized business units (SME's) < 200 employees.



1.4.3 Large Business

Segmentation details

This segment comprises operators with assets in excess of \$20m or employees greater than 200.

Segment viability comments

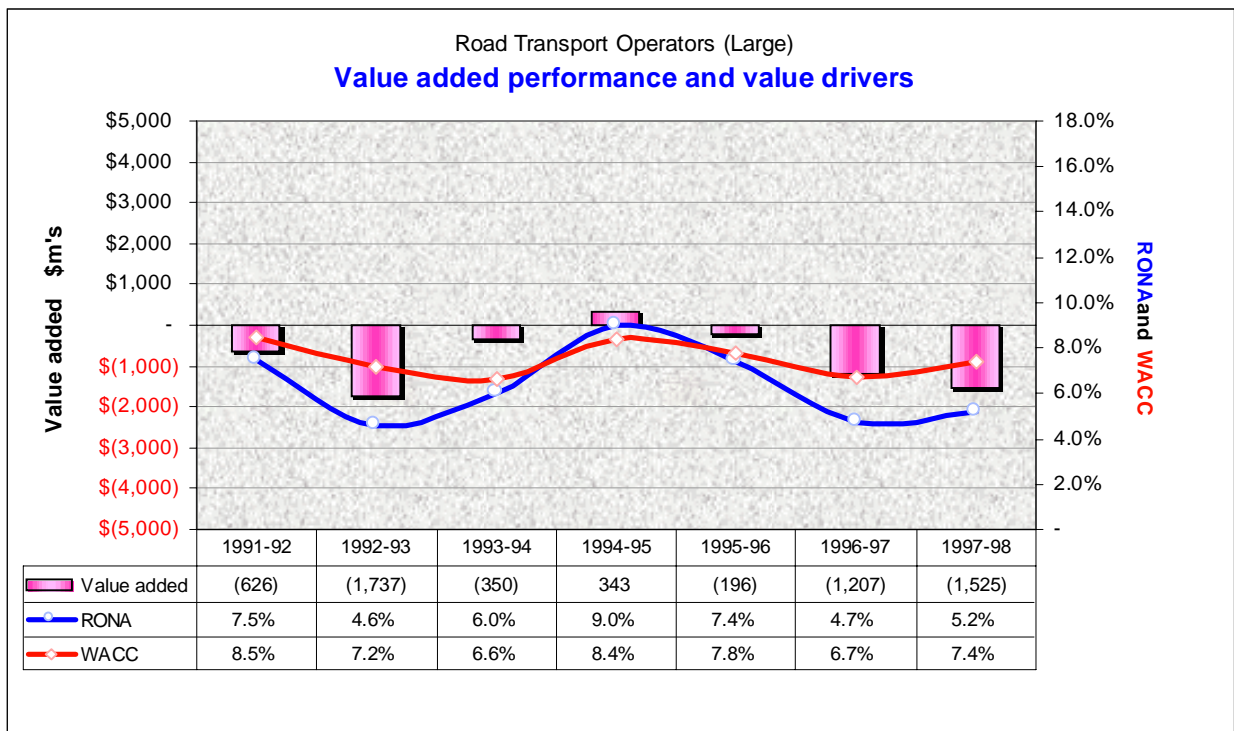
The average large operator has produced a RONA greater than WACC in only one year since 1991-92, that being 1994-95. Of even greater concern is what appears to be a steady deterioration in performance of the average operator in each of the three years since then. This is despite the slight improvement in RONA from 4.7% in 1996-97 to 5.2% in 1997-98.

To analyse this trend, RONA has again been split into its two components.

The average operator's profitability (NOP / Sales) has fallen from a seven year high of 7.4% in 1994-95 down to 4.5% in 1997-98. The 1997-98 result was a slight improvement over the 7-year low of 3.9% produced in 1996-97. This decline has largely been driven by increasing labour costs (35% of sales in 1994-95 up to 38% of sales in 1997-98) and an increase in cost of sales (58% in 1994-95 up to 61% in 1997-98). Both of these trends may indicate that these operators have not passed on fully, their increasing costs to their customers. This squeeze on operating margins may underlie the relatively low rates paid by these operators to their sub-contractors.

The asset turnover for an average large operator rose to a seven year of 2.51 in 1995-96, then fell to 1.8 in 1997-98. This is a significant decline.

Table 5: Large Business Units > 200 employees



In addition, like SME operators, this segment has significantly increased the proportion of equity capital used in finance their net operating assets. In 1991-92, equity was only 27% of total capital employed. In 1997-98 this had more than doubled to 57%.

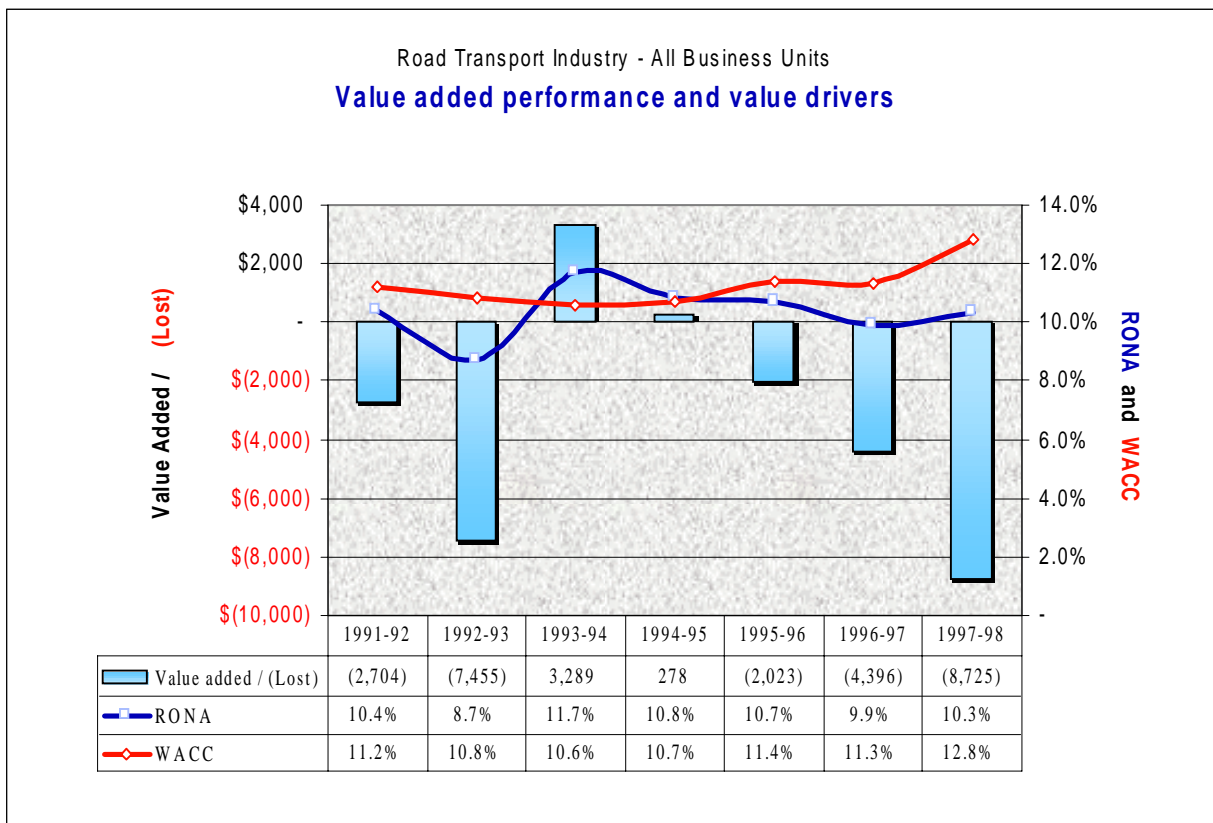
In summary, like the SME operators, it appears that large operators may not be increasing the rates sufficiently to produce a viable RONA, possibly because they are not including a proper cost of equity funds in their costings.

1.4.4 All Operators

When the two segments are combined, the trends are amplified. In 1994-95 the average operator appears to have broken even, producing a RONA of 10.8% compared to a WACC of 10.7%. In 1997-98, the average operators RONA had fallen slightly 10.3%, while the true weighted average cost of capital was approximately 12.8%.

This analysis suggests that many operators within the industry were unviable in each of the three years from 1995-96 to 1997-98.

Table 6: All Transport Companies Combined (Tables 5&6)



CONCLUSIONS

The viability problem experienced in the road transport industry up until now has been mainly confined to those operators who sub-contract their services and equipment to prime contractors. However, research shows that even large transport companies are now experiencing difficulties in obtaining economies of scale in their businesses.

The reverse is often the case for those companies who carry their own freight who are assumed to be viable by the very nature of their existence as ancillary to the core business of the company. The report also acknowledges the trend away from own account fleets given the specialised nature of certain transport companies and their ability to offer a lower transport cost to companies looking to divest non core businesses or business units.

The proposed changes in regulations by the NRTC has also proved to be a catalyst for many operators electing to become involved in voluntary accreditation schemes. In fact, many regulatory benefits (which will impact positively on industry viability) as a reward for effort may in the future only be available to those operators who have minimum standards in place through accreditation schemes.

The challenge industry faces is acknowledging there is a group of operators who should be given preferred treatment given their commitment to industry standards. Notwithstanding the gains from the proposed increase in mass limits or a reduction in the diesel fuel excise, better utilisation and regular work from a loyal prime contractor is also considered by many smaller operators to be vital in ensuring long term viability.

Smaller operators who are unable to take advantage of technological gains through increased vehicle capacity and multi trailer combinations remain disadvantaged when compared to the larger companies, who are able to service much larger contracts with bigger fleets.

The report concludes that all operators are increasingly under pressure to remain viable as evidenced by the long-term performance of this industry, increasing number of bankruptcies and exits from the industry. The added pressure of shareholder expectations to achieve adequate returns for the large public companies, in a market where we are experiencing increasing costs and decreasing rates (both customer and sub contract rates), also impacts on all operators who sub contract to these public companies (who determine rates for the sub contractor).

The added problem of a growing shortage of professional drivers in Australia (not dissimilar to America), will remain an obstacle for many small operators looking to increase vehicle utilisation beyond the legal limits of one driver. This problem is also causing concern for large companies who need to maintain high levels of customer service from an often-transient work force.

The internal and external factors identified in the study that effect ongoing viability of the road transport industry could be minimised by addressing the following:

- Formation of a Road Transport Viability Working Group supported by government and industry to conduct a series of national workshops to increase awareness of the initial findings.
- National launch of an educational program to educate industry and consumers of road transport on the real costs of operating a transport business and importance of business planning.
- Resolute acceptance of minimum standards by operators through participation in industry associations.
- Industry developing better relationships with consumers to obtain productivity gains to offset the proposed introduction of increased mass limits, decrease in diesel fuel excise and on-going provision of regulatory benefits for accredited operators.
- A recruitment program to attract more professional drivers to an industry with more acceptable working hours.

It remains that the Australian economy needs an efficient road transport industry and steps must be taken immediately to ensure it's long term viability.

The road transport industry itself must restructure and change from an inward focus looking at it's own problems in isolation, to an outward focus and look for ways to add value into the existing transport task.

2.0 Initiatives in Transport addressing the causes and effects of fatigue.

The more common approach in addressing unsafe work practices in transport has been to focus on the symptoms which include speed, drugs, overloading and excessive hours, rather than look to solutions for the root cause.

The majority of industry initiatives are well intentioned, however they never truly effect the long term change in culture this industry so desperately needs.

The reason for this has already been addressed under the industry viability heading where the imperative for economic survival ultimately determines the safety-related outputs.

To ignore industry viability and attempt to change industry culture through regulation alone, will present the perfect recipe for a continuation of exactly the same industry performance as we have seen in the last decade.

Some industry initiatives are having a small effect and warrant comment.

2.1 TruckSafe

Originally established the help galvanize the road transport into a reform process post the horrific bus and crash accidents in the late 80's, TruckSafe is arguably the best initiative industry has introduced.

Despite the small number of operators (estimated to be 350) actually accredited, this program has helped many operators become better business people and in turn improved their long-term viability.

However, TruckSafe operators still have truck crashes as the TruckSafe audit process does not audit many aspects of road transport law including driving hours, driver schedules speed and vehicle compliance. It simply asks operator to agree to implement a set of industry standards and be audited against them.

As TruckSafe does not specifically address the major causal factors of heavy vehicle accidents, it will not have the desired impact on driver fatigue levels until the standards are widened to include those included in the Queensland Transport Fatigue Management Program (FMP).

2.2 Fatigue Management Program (FMP)

An excellent program and a viable alternative to log books as a means to measure and manage driver fatigue levels. This is because it addresses the critical areas of driver and vehicle scheduling, employee rosters and the balance between work, rest and driving hours.

The unnecessary delay in widening the availability of this program may bring about its ultimate failure as regulators procrastinate over its value and impact. As logbooks are proven to be totally ineffective in measuring fatigue levels and in the absence of an alternative, the FMP must be fast tracked if we are to seriously address driver fatigue.

2.3 Fatigue Research

The abundance of high quality research now available has meant the transport industry can now better understand the human side of the fatigue equation. Putting the research into practice has proven difficult, as it has only been recently that technology has allowed the development of a software program to accurately predict driver fatigue levels. The work of Professor Drew Dawson at the Adelaide Center for Sleep Research in conjunction with InterDynamics has produced the FAID software program, which is helping the insurance industry educate transport operators in ways to better manage fatigue.

MMI have established a risk management division within the company, which is specifically looking at the driver fatigue issue and ways to minimise its impact. Education and tools like the FAID program are allowing transport operators to see for the first time, how, where and why fatigue occurs in the scheduling process. This is also allowing other options to be explored through the fatigue modeling software which is beginning to show results in the form of revised driver schedules with lower levels of driver fatigue.

2.4 Western Australian Code of Practice

The state of Western Australian and the Northern Territory have developed what is considered to be the most effective way to manage driver fatigue in the workplace. By making employee fatigue a more obvious part of workplace safety, it then raises the awareness level of the transport operator that excessive levels of fatigue in the workplace may constitute a breach of the Act in these unregulated zones.

The need for operators to have a written Fatigue Management System (FMS) is helping the transport industry better understand the issue of driver fatigue and facilitating a change in culture where it counts. This is in contrast to the traditional enforcement approach taken in all other states where logbooks are used which do not require the business owner to specify how they manage fatigue in the workplace.

All states should introduce this approach irrespective of the regulatory framework they operate under as a means to address fatigue in the workplace.

2.5 Safe-T-Cam

MMI support the NSW Roads and Traffic Authority in their efforts to clean up the transport industry. The recent addition of new sights and improved technology to reduce drivers avoiding detection has meant a tighter network of camera sites and better monitoring of heavy vehicle movements.

Our recommendation would be to apply the same technology to other states and link them all together. We note this was not done nor was it considered in the design and construction of the new Melbourne City Link freeway network where digital cameras have been installed to collect tolls.

If this technology were applied nationally, then a consistent reform process would begin. The committee should note that Safe-T-Cam only measures elapsed time between sites to detect driving hours violations and/or speeding, it does not measure driver fatigue or have any influence on time of day driving occurs. The latter being the most critical factor in driver fatigue.

2.6 Summary

In isolation, each of these programs are very good, but would be much more effective if packaged into one program. MMI believe such a combination would bring about the long-term change this inquiry seeks to effect.

3.0 Ways of achieving greater responsibility by individuals, companies and governments to reduce problems related to fatigue in transport.

3.1 Review of current regulations

In reviewing the driving hours regulation as it applied to heavy vehicle drivers, the NRTC in 1998 proposed a new set of regulations which changed the way a driver records the daily driving and work hours. The major change meant that the midnight to midnight method of calculating daily hours was replaced by the new “any 24 hour “ rule.

The NRTC are open in their approach, as they have considered the worst case scenario in designing the new rules rather than what is considered common practice.

By this they mean the old approach could have allowed a driver to work a long day up to midnight, then start a new page in the log book and work as many hours in the next 24 hour period to midnight the next night. What they (NRTC) have failed to understand is that this would be an extreme example and not reflective of most drivers.

The new rule makes it mandatory to have a 10-hour break every 24 hours with 6 hours (minimum) continuous rest during this period. The problem driver's face in attempting to manage fatigue levels is that this break period is not discretionary. Regardless of where you are and the time of day, the break must be taken.

From a fatigue management viewpoint this means drivers are often attempting to get sleep during the day and ignore their internal body clocks by driving when they are tired and being forced to rest when they are not.

Attached in Appendix B are two examples of this from a recreation of several trips between Sydney and Melbourne. Example 1 titled “Any 24 hour rule” shows that the 6-hour break is taken on three separate occasions during the successive days following periods of night driving. Example 2 is exactly the same trip but with fatigue management principle applied to the driving task involving more night sleeps and more day driving.

Under current logbook regulations, example 2 with fatigue management applied would incur 3 separate fines of \$175 for exceeding 14 hours work in any 24-hour period. This is why logbooks do not work and are in fact counter productive. Many industry drivers and operators believe that the current logbook system is only adding to the driver fatigue problem, not fixing it.

An urgent and immediate review of the “any 24 hour” rule is required.

3.2 Vehicle Design

The topic has been addressed in some detail in previous submissions, however the topic warrants further exploration. Current regulations encourage transport operators to maximise payloads by having the highest capacity trailer combination possible.

As the overall length of a heavy vehicle in Australia is measured from bumper to bumper, we have seen the emergence of long distance trucks in a cab over the engine configuration (considered unpopular by most drivers). More recently, bonneted trucks without sleeper cabs have begun operation on long distance overnight work that do not meet ADR 42 (sleeper cab specifications) as required when a driver takes a rest break which involves sleep.

MMI believe the latter to be a dangerous practice and even though company schedules would propose that the driver does not require a sleeping compartment, the incentive for discretionary sleep is offset by the lack of available sleeping area.

A solution would be to limit trailer length from kingpin to the rear bumper and allow greater flexibility for prime mover length. We note a regulation is already in place in Western Australia (WA) which allows for longer prime movers in a B-Double combination, but only in WA.

The same principal could be applied to all B-Double and Road Train routes throughout Australia where long distance driving is prevalent.

3.3 Workplace Safety

Our recommendations under this heading have already been noted in section 2. In summary, MMI believe the WA Code of Practice approach under the provision of safe systems of work for employers to be a more effective way to manage driver fatigue levels.

We recommend this approach be adopted by all state WorkCover bodies in Australia.

3.4 The Trade Practices Act (TPA)

By attempting to address the viability of the road transport industry through an education process, industry runs a great risk of breaching section 45 of the TPA. Any effective education process runs the risk as being seen as anti-competitive if its seeks to effect price, either directly or implied.

Section 45 of the TPA prohibits contracts, arrangements or understandings restricting dealing or affecting competition. In referring to “arrangements” or “understandings” the TPA covers more than formal agreements by transport operators to act in a particular way. An understanding may be no more than a consensus as to what is to be done. But there must be a meeting of minds, not merely independently held beliefs to the same effect.

Section 45a reinforces this point which deals with contracts, arrangements or understandings in relation to prices. This section declares that price fixing arrangements are completely illegal and treated automatically as anticompetitive.

It should be noted that a price may be fixed for the purpose of s45a even if all that is proposed is an increase to a certain figure without any provision as to when, by what machinery or what amount a further change may take place.

To properly address the lack of industry viability as outlined in our submission, we believe the TPA Act must be changed so that transport operators can be educated on how to set their cost base and subsequent revenue levels, so that they produce safe work practices.

3.5 Road Transport Viability Working Group

A critical component in the management of fatigue process will be the education of industry on how to be viable, profitable and operate in a safe manner. To this end, MMI believe a education process must be undertaken in conjunction with the Department of Workplace Relations and Small Business through a national approach.

We propose this privately run body be formed to undertake a national road show approach in educating industry on the points raised. We also recommend it not be done through traditional road transport industry representative bodies, as they do not represent the trucking industry adequately. Rather, we would suggest that the individual state chambers of commerce and industry would be more relevant in dealing with the subject matter.

The education process is a critical step, and one which must be undertaken first so that sound financial practices are introduced before risk management programs (like Fatigue Management) are recommended.

3.6 Working Hours

We refer the committee to a report prepared by Dr Claire Mayhew and Professor Michael Quinlan on “Why OH&S Safety Outcomes are Worse for Sub Contractors in Road Transport”.

This report details the dramatic impact excessive working hours are having on the road transport sector and how the micro-economic reform process is exacerbating the sectors problems.

At a time when it appears all industry stakeholders are genuinely concerned about driver fatigue, a scheme is introduced that allows a driver to drive 14 hours in a 24-hour period!

The regulators defend the scheme saying it has adequate countermeasures yet does not regulate the time of day driving occurs, just the total number of hours. This is of

course contrary to all research tabled before this inquiry. On the other hand, we have seen no objection from industry as it allows greater utilisation of equipment and people.

Currently, heavy vehicle drivers are allowed to drive a maximum of 72 hours per 7 days under the regulated scheme including unloading and loading time with a requirement for drivers to have a 24-hour break every seven days under this scheme. This applies to all states except Northern Territory and Western Australia where logbooks are not required. The Transitional Fatigue Management Scheme (TFMS) allows the daily task to be extended to 14 hours but no more than 72 per week.

This working week is already *45% higher* than what is considered a normal working week for most Australians, yet the results from Operation Austran in NSW and Victoria, and subsequent field trips by the Victorian Police Task Force indicate that many drivers were already working in excess of 72 hours per week.

It seems contradictory to talk about fatigue management yet have new regulations introduced that allow a driver to drive for 14 hours without regard for the time of day the driving occurs. It is our view that this scheme will only encourage more fatigue-related accidents.

3.7 Finance Industry Regulations

The inquiry has heard that low barriers to entry in trucking has meant it has been relatively easy to obtain credit for new vehicles without regard for business experience, and long-term viability projections.

MMI believe that the finance industry should review current practices and impose minimum standards which require a new finance applicant to produce financial projections as part of a business plan. This should demonstrate how they intend to achieve a return on net assets (RONA) greater than their weighted average cost of capital (WACC refer section 1.5) and ultimately ensure their long-term profitability.

The Road Transport Viability Working Group proposal would also include this sector in the educational road show.

Anecdotal evidence suggests that the more traditional forms of security of bricks and mortar is all that is required for new entrants to purchase a new vehicle. MMI propose that irrespective of the form of security on offer and the mix of capital required (debt and equity), it is more important for the business applying for credit to demonstrate that their proposal is viable before the institution advances finance.

3.8 Rest Areas

An integral part of the driving task is the need for rest, and rest areas on our national roads play an important role. Road designers will continually face an uphill battle to provide sufficient rest areas for the motoring public, so we need to ensure that those few rest areas we do have available for heavy vehicles are kept for just that purpose.

State transport enforcement agencies (VicRoads, NSWRTA, Queensland Transport etc) regularly set up road side enforcement sites at rest areas depriving drivers of the available space to rest. Added to this is the increased chance of being harassed by enforcement officers even if the driver does pull over to rest. There is ample anecdotal evidence from drivers in the industry to testify to being woken up by over zealous transport inspectors (to only have their logbooks checked) after earlier having pulled over for a sleep.

MMI recommend that enforcement officers in all states be prohibited from using rest areas for enforcement activities.

3.9 Further Research

As noted in section 1.4.2 of this submission, we believe that further research is required to define the extent of the lack of viability of the owner driver sector of the industry. Our initial research suggests that the good performance of the SME sector overall is largely due to a smaller number of highly profitable small to medium fleets. What is not immediately obvious from the research is the performance of the owner-driver sector.

We believe that further research is required to more accurately measure the extent of the industry viability problem in this sector. As the research to date has been largely unfunded, we would recommend some additional funding be made available to Pannell Kerr Forster to conduct this research for the committee. They have to date provided the research on the ABS database free of charge for inclusion in this submission.

This topic could also form part of a wider discussion on the overall funding of the Road Transport Viability Working Group proposal.

3.10 Lower Premiums

The committee has heard calls from the ACTU for insurance companies to offer lower premiums as an incentive to transport operators to better manage fatigue. This approach has been tried before without success involving the TruckSafe Program. When it was introduced some insurers believed accredited operators would be better risks and offered immediate reductions without evidence that a change in on-road behaviour had been effected.

MMI have found that TruckSafe operators are not better risks than any other group of operators, some are in fact the highest risk operators in the industry with the worst accident records to date.

Lowering premiums will not work as it just allows operators to get away with high risk behaviour knowing that the insurance company will always be there to pick up the pieces. Unless operators get a clear message that high-risk transport operations where high levels of fatigue are involved attract higher premiums, then the trucking industry will continue believing that high-risk behaviour is acceptable.

4.0 Summary

The committee has asked for the views of the insurance industry on what it can do to contribute to the fatigue issue. This submission goes some way to clarifying the real cause of driver fatigue and offers some practical solutions.

We would welcome the opportunity for a closed hearing to discuss the matters already raised and provide the committee with additional information we have deemed commercially sensitive and therefore not for publication in this submission.

In closing, we believe the solution to driver fatigue to be very simple.

By getting the financial equation right and setting the appropriate cost and revenue levels, a business can afford to have realistic utilisation levels of both people and equipment.