

Ms Sharon Bird MP  
Chair  
House of Representatives Standing Committee on Infrastructure and Communications  
PO Box 6022  
House of Representatives  
Parliament House  
Canberra ACT 2600

Dear Ms Bird

Further to my previous correspondence, I am pleased to provide further input into the current inquiry into *the Road Safety Remuneration Bill 2011* following the public hearing on 15 February 2012.

Having attended the hearing as an observer and having since read the official transcript of proceedings, I am compelled to make further representation on behalf of NatRoad following comments made by the Transport Worker's Union (TWU) during their evidence. The purpose of this letter is to correct the record with regard to the assertions made about NatRoad's position on the Bill and also to respond to some of the matters raised during the proceedings.

### Clarification of NatRoad's Position

I agree with Mr Michael Kaine, National Assistant Secretary, TWU, that NatRoad is indeed a "significant association in the industry" - a view I put to you in my previous correspondence of 9 February 2012. NatRoad is the largest road transport operator's association in Australia representing around 1,100 trucking businesses.

While I understand that evidence presented in written or oral form is considered of equal value, public hearings nonetheless offer an opportunity for spontaneous 2-way communication which can aid the understanding of the issues for both committee members and stakeholders alike. NatRoad would be pleased to accept such an opportunity and I would again urge you to consider holding a further public hearing in which NatRoad would be invited to participate.

I very strongly disagree with Mr Kaine's assertion that NatRoad is "in substance, not opposed at all" to the Bill. Our position and the reasons for it are made abundantly clear in our primary submission. Our supplementary submission serves only to comment on the specific provisions of the Bill in the event that the Government takes a decision to proceed against the best advice of transport companies and the broader supply chain. While I would expect our recommendations to be given due consideration in such an event, our supplementary submission clearly states that "No part of this supplementary submission should be interpreted as either a general or specific endorsement of the proposal".

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## Matters Raised During the Proceedings

### Crash Statistics and Industry Practices

I am concerned about some of the inaccurate comments made concerning crash statistics and industry practices and the potential for these to influence the view of the Committee. In particular, I note the comments made in relation to the total number of fatalities, accident trends and hours worked by drivers. In this regard I wish to remind the committee of some established facts:

- **Fact 1:** There are around 250 fatalities annually involving heavy vehicles (as correctly asserted by DEEWR). The figure of 330 being quoted by the TWU is outdated and overstates the current problem by approximately 32%.
- **Fact 2:** Current annual reductions in the number of road fatalities are not 'small decreases'. Reductions are cumulative and compound over time. The number of road fatalities in Australia during 2011 was the lowest since 1946 (Bureau of Infrastructure, Transport and Resource Economics). If current fatality rates had remained the same as those of the 1960's the 2011 road toll would have been ten times higher.
- **Fact 3:** B-Doubles are not more dangerous than other vehicles. They carry 46 percent of the freight yet account for only 28 percent of serious truck crashes (National Truck Accident Research Centre 2011).
- **Fact 4:** It is illegal to drive more than 12 hours in any one day unless accredited under statutory fatigue management regimes. I am incensed by the assertions of the TWU that the 82 percent of accidents found to be the fault of a third party motorist should be considered to be the fault of the heavy vehicle driver because their reactions are diminished after 17 or 18 hours of driving time.

### Is there a link?

The committee is clearly interested in whether or not there is evidence challenging the assertion that there is a link between remuneration and safety.

It is NatRoad's view that two of the fundamental pillars of good governance are to spend taxpayer's money wisely and to avoid imposing unnecessary regulation on key Australian industries. Given that the Regulatory Impact Statement (RIS) released with the proposed bill indicates a net cost of \$228m over ten years (involving costs for both industry and government) it is vitally important that the case for the reform is conclusively proven.

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Surely, the onus for proving that increasing driver remuneration will result in improved safety outcomes rests with the proponents of change? There are decades of safety data available in Australia, so if the relationship exists, the case can and should be conclusively proven. So the question must be asked “Have the proponents proven their case”?

Clearly not. The existence of a large volume of information or body of opinion does not necessarily constitute proof. I refer the Committee to the conclusions of the key reports on which the proposed regulatory reform is based:

- 2008 NTC report: “...it cannot be shown that low rates of pay and methods of payments directly cause truck crashes..”;
- 2011 RIS: “...studies and academic literature have not conclusively proven the extent to which rates and safe transport outcomes are related...”

While it is abundantly clear that doubt remains, and that proponents of the bill have not conclusively proven their case, I will nonetheless outline some of the evidence against.

#### *Prevailing Statistics*

Prevailing statistics periodically published by the Bureau of Infrastructure and Transport Economics do not demonstrate a positive relationship between freight rates and accident rates. In fact, the reverse is true - accident rates for heavy vehicles have decreased over the same period in which:

- the freight task has increased by around 7 percent annually; and
- freight rates have declined in real terms.

#### *Academic Literature*

A general consensus has not been reached among the academic studies undertaken to date. Some studies have found no difference in crash rates between drivers operating under awards and those with unregulated remuneration methods, including:

- Professor Quinlan’s 2001<sup>1</sup> survey which found that there was very little difference in the proportion of owner-drivers (i.e. not subject to an award), small fleet drivers and large fleet drivers (both subject to awards) involved in a crash over the preceding five years in NSW;
- Research undertaken by Williamson, Feyer, Friswell and Sadural in 2001<sup>2</sup> which indicted that crash rates were similar across all driver categories.

<sup>1</sup> Quinlan, M (2001), Report of Inquiry into Safety in the Long Haul Trucking Industry, A report commissioned and prepared for the Motor Accidents Association of NSW.

<sup>2</sup> Williamson, A. Feyer, A, Friswell, R and Sadural, S (2001), Driver fatigue: A survey of Professional Long Distance Heavy Vehicle Drivers in Australia, report prepared for the National Road Transport Commission.

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As openly acknowledged in the 2011 RIS, different conclusions have been reached even among the supporting studies. For instance, Williamson et al (2001), Rodriguez et al (2006), Nafuko et al (2007) and Belzer et al (2002) found different results ranging from:

- A very small effect;
- A very large effect; or
- A positive safety effect at very low pay levels which later reverses at higher pay levels.

Concerning the only study to find a strong positive relationship, there has been accusations of selection bias in the data used to support Belzer's 2002 conclusion that higher pay rates are associated with safer on-road behaviours (ACIL Tasman 2003 – Freight Rates and Safety Performance in the Road Freight Industry). On the surface the results appear quite incredible. Assertions that a 10 percent increase in driver remuneration would result in a 36 percent reduction in crash risk do not accord with other academic studies and imply that a 30 percent increase in remuneration would eliminate all heavy vehicle crashes. This is particularly hard to believe given that the proposal would have no effect on crashes in which another vehicle is at fault or those caused by external factors such as road conditions or mechanical failure.

#### *NatRoad Survey*

The evidence outlined above demonstrates that there is a very high level of uncertainty concerning whether or not safety in the road transport sector can be significantly improved through remuneration intervention. This question is however, at its core, a behavioural question.

In January 2012, NatRoad undertook specific research to determine whether or not road transport operators considered that remuneration changes would impact on safety outcomes. A resounding 74 percent of the 105 trucking companies surveyed by NatRoad rejected the notion that increasing driver remuneration would improve on-road safety outcomes. Importantly, this opinion was supported by the majority of owner-drivers, medium and large trucking companies.

#### **Consequences of Inappropriate Action**

The comments of some Committee members apparently indicates a belief that the bill is somehow 'fail safe'. Specifically, comments were made that, at worst, the tribunal would have no reason to act if compelling evidence was not made available.

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I am staggered by such sentiment. As outlined above, the link has not been conclusively proven! Yet, we have before us a bill which will establish a tribunal with an annual cost of \$5m. What comfort is there for industry that the proposed tribunal will not act if both the NTC and Australian Government have each considered the currently available academic literature to be adequate grounds for new legislation? Presumably, any person appointed to the tribunal will also have accepted that the current evidence supports the existence of a link.

Add to this the stated objects of the Bill, the requirement to publish an annual work plan, the ability of the tribunal to act on its own initiative and the stated intentions of the TWU to bring cases before the tribunal and it is almost inconceivable that the tribunal would not make a determination within the first 12 months of establishment.

### **Conclusion and Options for Moving Forward**

There is a grave risk for the Australian economy in moving forward with the current proposal. It is wholly unreasonable for the Government to promise drivers that the tribunal will reduce crash rates when such an outcome has not been clearly established. Adding to this expectation, the TWU is claiming in almost daily media statements that every recent accident underscores the need for the tribunal when even in a 'best case' scenario the tribunal would prevent just 3.2 percent of fatalities (8 out of a total of 250). Who will wear the moral or financial liability for deaths that are not prevented? Who will explain the reasons for failure to the families of the deceased in the 96.8 percent of cases when the 'safe rate' will not work? The need for the Tribunal to set and publicly report against safety targets is of vital importance as outlined in NatRoad's supplementary submission.

The Government has also made a commitment to work towards a seamless national economy. NatRoad has supported measures to nationalise awards, workplace health and safety laws and heavy vehicle laws. To turn around and then impose a new layer of regulation that does not even apply nationally (covering only 80 percent of employees and 60 percent of owner-drivers) is clearly a step backwards. To make matters worse, just three voting members of the Tribunal will have the power to make orders that override the powers and decisions of more appropriate safety authorities such as the National Heavy Vehicle Regulator which will administer laws relating to mass, dimension, loading, fatigue, vehicle standards, accreditation and chain of responsibility.

The submissions put before the Committee makes it clear that the main point of contention among all stakeholders (Federal Government, State Governments, unions, industry associations and academics) is whether or not the link between remuneration and safety has been conclusively proven. If the case was proven beyond all doubt, it is likely that most stakeholders would support intervention at least 'in principle'.

The Government has demonstrated a commitment to addressing this issue and has tentatively allocated an annual budget of \$5m toward this endeavour.

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To once and for all address the outstanding point of contention and bring all stakeholders together in a spirit of cooperation, NatRoad suggests that the Committee should recommend that:

- The bill be delayed for 12 months;
- The first year's operating budget of the proposed Tribunal (\$5m) be directed towards funding an independent body to conduct urgent research to establish the degree to which remuneration can be used as an effective lever for improving road safety outcomes in Australia;
- The research be primarily based on objective measures such as jurisdictional crash data;
- The research be overseen by interested stakeholders including Federal Government, State Governments, unions, industry associations, transport companies and academics;
- Research findings be published and subject to peer review;
- Research findings be used to determine the adequacy of current regulatory arrangements with a view to identifying specific regulatory gaps that require attention;
- The Government must then determine whether or not the current regulatory regime can be expanded to cover gaps or whether new specific (rather than general) powers need to be conferred on a new Tribunal; and
- The Government should also obtain legal advice concerning the liabilities, if any, if expected safety improvements do not occur or if safety is inadvertently lessened as a result of higher payments to drivers.

Once again, thank you for your consideration of my input into this most important issue. If you wish to discuss please do not hesitate to contact me

Yours sincerely

Christopher Melham  
Chief Executive Officer

27 February 2012

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