



## An Analysis of Safe Rates and Response to Safe Rates/Safe Roads & Long Distance Operations Awards

The Long Haul Drivers Association agenda is to fill the void that has been a stumbling block to transport reform. That void is the voice of the Long Haul Driver, they are the ones who suffer the consequences of all the poorly researched and implemented policies that Transport Associations have urged the Regulators to adopt, not forgetting the Transport Associations represent the Employer and therefore their agenda is skewed to their Employer members favor. The problem is, the outcome of recent legislation and wage negotiations is a rather lopsided playing field slanted to the Employers favor and stripping drivers of the ability to negotiate a fairer deal. The TWU has signed off on some of the worst legislation( for drivers that is) in recent history and that has enraged LongHaul drivers and has further alienated them from the Union that in turn has led to the formation of OUR own association. One of the restraints that have held back setting a fairer and more equitable deal for drivers is the fact that there has been no input from the LongHaul divers into any of these negotiations and that has led to a rather lopsided result. We need people with expertise in Long Distance driving and Owner driver needs to offer the input that to date has been missing from the debate and discussion on the subject of Remuneration and conditions of Employment, we believe our association will add that missing discourse in debate and considerations on Long Distance transport needs.

One might ask why hasn't the Transport Workers Union given that insight and input and the reason is found in the name "Transport Worker," the union represents the interests of Airport workers, forklift drivers, dockhands, bus drivers and a range of ancillary transport personnel and very few actual LongHaul drivers. All of these proposals and reform ideas were taken to TWU headquarters and were rejected so we decided if we must form our own association to defend the interests of Long Distance drivers then so be it.

One of the difficulties in assessing the impact of remuneration is the shifting of the balance between driver and owner driver numbers. The reason these numbers tend to fluctuate so wildly is transport companies continually look at the cheapest cost benefit and not necessarily the best practice cost benefit and that makes the situation difficult to control. The supply and demand obligations on transport fleets make it necessary to utilize owner drivers to service the peaks and troughs of individual fleets and it also allow some transport companies to employ owner drivers on a permanent basis to suit their operational needs. Some owner drivers and small fleets have successfully negotiated their own cartage contracts and are well run and managed and are quite profitable, the problems begin when ill-equipped and under capitalised operators start operating on an ad-hoc basis and become embroiled in a struggle for survival and have to resort to being price takers and not price setters. They often have to resort to undercutting rates to generate enough traffic for their business to survive and the Major transport fleets and their customers have used this to prop up their bottom line and improve profit at the expense of those in the industry trying to do the right thing.

There is no future in regulating rates for owner drivers who don't have the skills to successfully operate a small business. There needs to be more than desire to have your own truck, a prospective owner driver needs to have a solid business plan and a well-structured outline of work, operating and maintenance systems. The current financial laws are far too lax in allowing Financiers to offer finance to candidates with collateral such as property and chattels to mortgage against the truck and trailer when they know full well that if the owner driver fails he will lose it all and the finance company isn't exposed to any risk. We need a complete overhaul of how the industry examines the cost of labor in the Long distance sector because for too long price has been the only benchmark taken into account and that completely ignores the road safety and OHS ramifications of the pressure placed on drivers to work longer, faster and harder in order to earn a living.

If drivers are granted a wage increase the first thing transport companies look at is transferring some of their work to Owner drivers and small fleets as that then shifts the responsibility for COR and OHS obligations to a third party and the problem with that is the small fleet owners who are Pty Ltd companies don't come under any industrial instruments and tend to underpay drivers and that leads to owner drivers having to match rates with them. The smaller fleets have historically paid drivers a kilometer rate and nothing else, they have continually avoided their obligations under the award agreements in place and that has led to a distinct disadvantage to ALL drivers across the board. The following analysis of current driver wage and payment methods demonstrates a complete lack of corporate governance on behalf of the owners of these fleets and it needs to be rectified in the course of examining the

road safety implications of this show of corporate ignorance. One of the fundamental rights of Australian Long Haul truck drivers should be the right to a safe, organized and legal work environment and sadly that is not the case at the moment in many transport companies and in their customer's premises.

The Road Transport (Long Distance Operations) Award 2010 has several flaws in the calculation and examination of what tasks a Long Haul driver performs as part of his duties and the award needs to be reviewed and those anomalies rectified. Transport companies have used this award as a maximum in their interpretation of drivers wage rates and that has exasperated the situation immensely. An obvious example is the Employers using the provision for negotiating the payment of "pick-ups" and deliveries they are paying as little as \$15 for them regardless if it takes an hour or five hours. That is of course if they even pay for them that quite a number don't. Instead of drivers being rewarded for the long arduous task of Long Haul driving they are in fact being grossly underpaid and that has led to a distortion in the true structure of wage and conditions in the long haul sector. If **all** drivers (whether O/D, employed driver or small fleet drivers) were paid for **all** the work they perform then it would go a long way to making a level playing field for all transport operators. The onus should be on the Employer to adhere strictly to the revised Long Distance Operations award for both their employees and the sub-contractors they employ be they owner drivers or fleet owners. The proposed Remuneration Tribunal will be the perfect modern for overseeing adherence across the board by **all** stakeholders. One of the key flaws in current wage systems for Long Haul heavy vehicle drivers is unpaid hours and artificially low kilometer and basic pay rates. Most Long Haul drivers work a minimum 72 hour week and the rest work up to 95 hours yet the Award only reflects a basic 38 hour week and the bare minimum is approx. \$680 per week. That has always been a problem to drivers because the only way they can take Annual Leave and survive is to take 2 weeks leave and cash in 4 weeks to keep the wage at normal levels. One thing to be noted here is the 4 weeks Annual Leave that all employers allow and it is my belief that the award actually allows provision for 5 weeks annual Leave so that is the first anomaly shown in the current award.

Another problem to appear is the calculation for kilometer rates and distances paid, it has been shown in my analysis that most Employers are paying the only kilometer distance set out in the award distances table and not **actual** kilometer, an example would be if a driver starts his pick-ups at Laverton and finishes at Dandenong, then returns to Laverton to start his Journey, that entails an extra 45 kilometres and up to 3 hours of unpaid work. One change to the award **must** be the hours of service payment, once a driver has completed the actual driving component of his shift he should revert to hourly pay whilst completing his duties, the current system of an Employer being able to **negotiate** a pick-up and delivery fixed fee is simply unworkable, a driver **must be paid for all the work performed** and the simplest way of doing that is to make your Work Diary your pay sheet. Once you do that it will make drivers more acutely aware of their driving hours and they will be less inclined to "fudge" the Diary as that would mean robbing himself of pay.

Two more points worth noting are the Five weeks Annual Leave entitlement that is afforded any shift worker in other awards and is part of the award for Long Distance operation. Few Transport Companies that I am aware of pay this and my question is

why? The other bone of contention is the 9% Super Employer contribution all employers are paying that on the basis of the \$680 base rate and that is simply a cynical tactic to further reduce a drivers fringe benefit.

So these are just some of the anomalies that have shown up in the current Federal Award, a more detailed analysis has been prepared and submitted to the DEEWR SafeRates/SafeRoads white paper. The government should recognize that some large players and associations have an "agenda" or a barrow to push and that it's not always in step with the safety goals and best interest of all stakeholders. That is not to say they are not safety conscious but simply they aren't able to accede to the proposition that rates and safety go hand in hand and that is unfortunate because the foundation for the entire debates currently being played out in the regulators examinations have at their core "safe pay/safe rates" it's just the link has yet to be publicly acknowledged.

Before any real progress can be made on safe rates/safe roads there needs to be a level playing field created where unscrupulous operators aren't able to circumvent regulations and under pay drivers to gain an unfair advantage. The LDA believes that the industry will embrace change so long as there are clearly defined mechanisms put in place to enable full cost recovery of the suggested reforms, helps them to survive in the current marketplace conditions and places everyone on a level playing field. The road transport industry has always been hamstrung by its inability to charge freight at its true cost and historically that's because there is no mechanism to ensure that competitors aren't able to use unfair or illegal work practices to compete for freight customers. The need to address that problem has never been so important, all avenues of cost offsets have been exhausted and the industry will be in a precarious position over the coming decade as the freight task grows and the ability to meet that challenge will be hampered by unsustainable margins, poor remuneration packages that will fail to attract quality entrants to the driving ranks and the infrastructure demands that will be difficult for all governments due to the knock on effect this situation will create.

One of the most common avenues unscrupulous operators use to lower their costs has been to rort driver remuneration and benefits by failing to adhere to the most rudimentary of award wage and conditions set out in the long Distance Operations award. They use that as a leverage to lower freight charges to the disadvantage of Operators who try to pay either award or above award rates to attract quality drivers and they are at a disadvantage to these tactics and have had to buckle to the demands of consignors and transport customers to lower freight charges to match the unfair tactics of their competitors. The ramifications of this systemic abuse of the award system have been horrific because the end result of this arrangement has been a dramatic increase in drivers hours of service ( the term hours of service should be used not the hours of driving) This increase in work hours (Fatigue regulations amendment 2008) has led to an alarming burn out rate among Long Distance drivers and led to a horrifying spate of fatal and serious crashes in the industry over the last five years in particular. The head of the Victorian Police Traffic Operations group recently stated that they were perplexed by the spate of Heavy Vehicle accidents, particularly on the Hume and Western Highways, over the last two years and if they really want to know the answer to that question **I have it right here amongst my analysis and research on the subject.**

In 2008 the new Fatigue Regulations were enacted in most eastern jurisdictions and that saw driving hours **increased** from 72 hours per week to 84 hours per week with trade-offs that suited Employers but left Long Haul drivers in a far worse position than they were previously because now the Employer had a reasonable steps defence ( not available to a driver oddly) and the right to demand more from the driver for **no corresponding increase in salary!!** Yes that's right because the driver is paid by the Kilometre he received no increase in his salary for an effective 12 hours more work each week.

Paul Freestone, head of the Victorian Transport Association, recently gave an address at the VTA annual conference and stated that the industry **MUST** address the growing shortage of drivers **urgently**. Well I can tell Paul that I have been spruiking that problem to Governments, Regulators, the TWU and Industry Associations for the last twenty years and no-one wanted to listen, so now the industry reaps what it has sown. The heavy vehicle fatality rate has been one of the most disappointing aspects of this path that we have travelled, in the last twenty years alone 1345 heavy vehicle drivers have lost their lives and thousands more have been seriously maimed and injured in crashes and that just has to be arrested immediately. The OHS repercussions of the long arduous task that Long Haul driving has become also paints a staggering picture thousands and thousands of drivers that are being burnt out, the suicide rate has spiked and the long term health problems that are now surfacing as our longest serving drivers reach retirement age are cause for grave concern. My friends, colleagues and acquaintances are having heart attacks, strokes, diabetes and coronary diseases and can mostly be attributed to the poor working conditions, poor diet and the stress related to the rigours of the job.

The long term repercussions of this refusal to acknowledge the problem and deal with it are now showing up and are causing **all** of the ancillary problems that go with this ignorance of fact and if we **DO NOT** act now we may never be able to meet the expectations and demands of the next 30 years. The LongHaul Drivers Association hopes to provide the valuable insight into the workings of the Long Haul sector that for so long has been missing and has led to this completely unworkable stuation tha we find ourselves in. We simply must fix this and fix it now!

This document was researched and prepared by Brian Turpie National President  
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