Submission 014
Received 30/01/12

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NATROAD SUBMISSION ON THE ROAD SAFETY REMUNERATION BILL 2011

30 January 2012

***NOTE*: Supplementary submission to follow**

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Submission 014
Received 30/01/12

Table of Contents

Submission 014
Received 30/01/12

1.0 Introduction

NatRoad appreciates the invitation to make a submission to the House of Representatives Infrastructure and Communications Committee Inquiry into the *Road Safety Remuneration Bill 2011* and the *Road Safety (Consequential Amendments and Related Provisions) Bill 2011*.

1.1 About NatRoad

NatRoad, the National Road Transport Operators Association, was formed in 1994 following the merger of the National Transport Federation and the Long Distance Road Transport Association.

NatRoad is the largest road transport operators association in Australia representing over 1100 trucking businesses ranging from owner drivers through to multinational logistics providers. Our members span the country with the majority operating trucks that cross State and Territory borders every day.

Under its Mission Statement, NatRoad is committed to provide leadership, support and development of its members, staff and stakeholders in the road transport industry. It strives to maximise members' long term viability by providing tools, networking opportunities and industry education within the following core values:

- National Uniformity of Regulation;
- Promotion of Safety and Compliance;
- Environmental Sustainability;
- Positive Community Awareness;
- Fair and equitable Industrial Relations framework.

Submission 014
Received 30/01/12

2.0 General Position on the Road Safety Remuneration Bill 2011

Road safety is a primary concern for all road transport operators and NatRoad generally supports measures aimed at building on the incremental improvements in crash rates evident in Australia since 1960.

NatRoad does not however support the *Road Safety Remuneration Bill 2011* in its current form.

While there is a high level of awareness of the proposal across the road transport industry, small, medium and large operators all consider that the bill will be ineffective in terms of improving safety. Most believe that the proposal will simply act to increase the regulatory burden while at the same time detracting from alternative safety initiatives that could be pursued.

It is acknowledged by both the 2008 NTC report and the 2011 Regulatory Impact Statement (RIS) that the data used to support the assumption that there is a causal link between driver remuneration and on-road safety outcomes is incomplete and uncertain. In fact, key research has demonstrated that:

- there is very little difference in the proportion of owner-drivers, small fleet drivers and large fleet drivers involved in a crash in Australia; and
- Crash rates for heavy vehicles are continuing to steadily improve; and
- heavy vehicle drivers are not responsible for the vast majority of crashes in which they are involved.

The RIS indicates a net negative Cost-Benefit Ratio of around -$228m over 10 years, even after savings arising from safety improvements are included. NatRoad believes that this figure is likely to be a gross underestimate of the true impact and would be much higher if broader regional and economy-wide impacts were also taken into account. NatRoad recommends that the Government should not proceed with any proposal that will produce a negative impact on the road transport industry and should refer bill and RIS to the Productivity Commission for a full economy-wide analysis.

Submission 014
Received 30/01/12

The heavy vehicle industry is already one of the most regulated sectors of the Australian economy. There are existing laws that apply to wages, conditions, contracting arrangements, road use, vehicle standards, fatigue, speed, mass, dimension, loading, substance abuse, record keeping as well as general workplace health and safety obligations. In addition, there is a chain of responsibility which imposes liabilities and obligations on all parties involved in road transport who have an ability to influence safety outcomes. Improving compliance with the existing regulatory regime would improve safety outcomes far in excess of the establishment of a new tribunal.

If the proposal was to proceed in its current form, NatRoad expects that it will:

- increase the decision-making and investment uncertainty for road transport businesses;
- undermine the role of established safety and remuneration of authorities;
- cause marginal freight to become uneconomic;
- increase costs for all industries in which there is a transport component;
- reduce profit margins for road transport operators, threatening their long term viability and shifting the 'supposed' economic incentive to break the law;
- add pressure for superior payments to be reduced to the minimum rate;
- distort the market in favour of employee drivers or alternative forms of transport;
- diminish business independence for owner-drivers;
- increase the regulatory burden;
- unfairly disadvantage regional areas; and
- bestow unions an unwelcome oversight role in otherwise independent businesses.

The establishment of the Road Safety Remuneration Tribunal (RSRT) in the transport industry represents a dangerous precedent with implications for all industries and therefore Australian productivity in general. The successful establishment of a RSRT would no doubt signal the commencement of a broader union campaign for similar arrangements in other industries where safety is a concern including mining, construction and agriculture.

While NatRoad rejects the establishment of the proposed RSRT, NatRoad nonetheless intends to make a supplementary submission detailing a position on the various provisions of the *Road Safety Remuneration Bill 2011.*

3.0 Road Safety

Road safety is a primary concern for all road transport operators. Road trauma impacts directly on truck drivers, their families, other road users and the wider community. Discussions on road safety are often emotive and it is impossible to identify a level of on-road trauma that would be 'acceptable' to the Australian community.

Any death or injury is one death or injury too many.

Road accidents also damage trucks and vital road infrastructure leading to consequential economic losses for owners, transport businesses and the community. There are no winners when an accident occurs.

A level of transport trauma has historically been tolerated by the Australian community because of the convenience of rapid people movement and the improvements in general population health and survival rates that are brought about through the efficient transfer of food, clothing, medicines and building materials between population centres. However, the vast distances between major population centres and a relatively low tax base prevent Australia from developing the road network to the same degree as more populous nations. It is sadly ironic that the very same characteristics that cause Australia to be so reliant on long haul road transport also make our roads more dangerous.

The reasons for road accidents are complex and varied. While a zero fatality rate is unrealistic in the short term, NatRoad supports measures aimed at building on the incremental improvements in crash rates evident in Australia since 1960. It has long been known that factors such as speed, fatigue, drug use and poor vehicle condition affect the rate of vehicle crashes and NatRoad strongly supports the sensible regulation of driver practices (including chain of responsibility requirements) in these areas.

Submission 014
Received 30/01/12

4.0 New Research

To support this submission to the current Inquiry, NatRoad undertook a survey of 105 Australian road transport operators during the period 12 Jan 2012 to 17 Jan 2012.

The survey questionnaire included a total of ten questions about key aspects and assumptions underpinning the bill.

Each survey was conducted via a telephone interview by a staff member of the NatRoad Secretariat. Importantly, the views of individual participants concerning the bill were not known to NatRoad staff prior to conducting the survey.

The results of the survey were collated and analysed to ascertain an overall industry view as well as the views of industry segments based on business size. The views of road transport operators concerning specific elements of the bill are presented throughout this submission, and the accompanying supplementary submission, where relevant.

4.1 Survey Participants

Survey participants were selected to represent a diverse cross-section of road transport operators in terms of the size of the business and their geographical location.

Number of Trucks	Number of Surveys
0 to 2	36
3 to 19	33
20+	36
All	105

Table 1: *Relative Proportions of Survey Participants based on Business Size*

Submission 014
Received 30/01/12

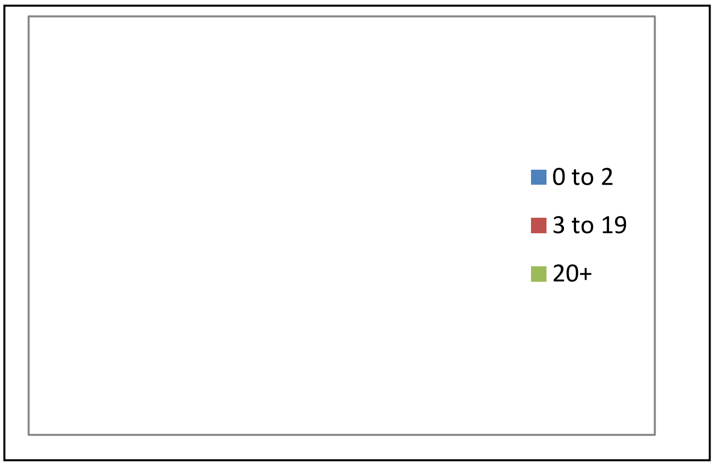

Chart A: *Relative Proportions of Survey Participants based on Business Size*

Across all categories, 47% of respondents classified themselves as ‘owner-drivers’ and 70% engaged sub-contract drivers at least occasionally.

5.0 The Case for Regulatory Intervention

NatRoad asserts that, at best, there is only a weak case for the proposed regulatory intervention. It is highly uncertain whether or not such a course of action will significantly improve safety while the RIS predicts a net negative impact on the road transport industry.

As outlined in the sections to follow:

- there is currently significant upward pressure on driver remuneration;
- the industry is already highly regulated in terms of both remuneration and safety;
- crash statistics indicate that the significant incremental improvements are likely to continue;
- there are a range of studies that indicate that it is unlikely that increased pay will improve safety;
- predictions of behavioural change are not based on sound economic theory;
- road transport operators of all sizes generally reject the notion that increasing driver pay will result in safety improvements;
- the RIS acknowledges that there is limited data and a high level of uncertainty. The RIS also predicts a net negative impact on the road transport industry in the vicinity of $228m over ten years; and
- there may be issues encouraging compliance amongst persons who are currently choosing to breach existing regulations.

5.1 The Current Operating Environment

Freight movements in Australia are continuing to increase by around 7% annually. At the same time, competition with the mining and resource sector has become intense and most medium and large transport operators around Australia are reporting that it is very difficult to attract and retain drivers. In some cases, business capital is being under-utilised and operators have trucks that are sitting idle because suitable drivers cannot be found.

This situation is creating significant upward pressure on driver wages with most operators needing to pay significantly in excess of the award if drivers can be found at all.

Sub-contractors too are benefiting from the situation. It is generally felt that most sub-contractors can currently find sufficient work and alternatives are generally available if work is offered on unfavourable terms or their current job is discontinued.

In conjunction with the prevailing market conditions which are currently favourable for both employee and contract drivers, the existence of the various road transport awards also acts to effectively put a floor in the market place. While it is fair to say that it might be difficult for contract drivers to change their circumstances with regard to capital overheads, there is a booming market for their services and there is a particularly high demand for employee drivers should any individual decided to exit the competitive contracting market and become an employee driver.

5.2 The Current Regulatory Environment

The heavy vehicle industry is already one of the most regulated sectors of the Australian economy.

There are existing laws that apply to wages, conditions, contracting arrangements, road use, vehicle standards, fatigue, speed, mass, dimension, loading, substance abuse, record keeping as well as general workplace health and safety obligations.

In addition, there is a chain of responsibility which imposes liabilities and obligations on all parties involved in road transport who have an ability to influence safety outcomes. Improving compliance with the existing regulatory regime would improve safety outcomes far in excess of the establishment of a new tribunal.

Significant regulatory developments are also underway including the transition to national workplace health and safety laws and the establishment of a National Heavy Vehicle Regulator (NHVR).

The ability to coordinate regulatory responses across all levels of government is one of the most fundamental and attractive features of the proposed NHVR. Establishing a new tribunal with primary responsibility for safety matters in the transport sector would be a major departure from the COAG agreement and would undermine the NHVR before it has even been established, currently scheduled for 1 January 2013.

5.3 Crash Statistics

It is clear that the current regulatory approach to reducing the road fatality rate in Australia has been extraordinarily effective. The November 2010 BITRE Information Sheet 39 "*Effectiveness of Measures to Reduce the Road Fatality Rates*" concludes that:

- *"......seatbelts, random breath testing and speed cameras were effective in significantly reducing road fatality rates. The overall effect of the three countermeasures was truly tremendous. The absolute number of fatalities per quarter in Australia in 2010 was less than 40 per cent of the number per quarter in the late 1960s. This was in the face of traffic growing by a factor of more than three and a half times. Thus the fatality rate has fallen to about 1/10 of its value in the late 1960s. Another way of saying this, is that the absolute number of road deaths per quarter would be 10 times the current value, if these successful countermeasures had not been put in place."*

This trend is continuing with the Bureau of Infrastructure, transport and Resource Economics (BITRE) publication, *Road Deaths Australia: Monthly Bulletin December 2011*, reporting that during 2011 Australia recorded the lowest number of road deaths since 1946.

As stated in the Safe Rates, Safe Roads, Directions Paper, general road-crash death rates have significantly decreased, falling from 20.1 per 100,000 people in 1950 to 6.6 people per 100,000 people in 2009. The BITRE[1] reports that road deaths in 2010 decreased by 8.2% to the lowest level since 1949, indicating that the decline is accelerating. OECD[2] figures demonstrate that Australia is not unique in having experienced a significant ongoing decline in road-crash death rates, signifying that broader factors are at play (i.e. not relating to driver payments in Australia), likely relating to changing attitudes towards speed, fatigue, drug use and vehicle standards.

According to BITRE online statistics[3], the total number of fatalities involving articulated vehicles has decreased by an average of 3.0 per cent annually between 1989 to 2009, while the overall rate for all vehicles has declined by just 2.2 per cent annually over the same period. While it would appear that the number of fatalities is relatively stable for rigid trucks, the dataset is limited, with specific data only becoming available in 2002 and it is difficult to draw firm conclusions given the variability apparent within this data set. NatRoad would caution against the use of small, obviously variable, datasets in drawing conclusions about crash rates, as has been done in the Safe Rates directions paper that concludes that rigid truck accident rates increased by 9.4% in the three years to 2009.

[1] BITRE. *Road Deaths Australia, December 2010*.
[2] http://stats.oecd.org/index.aspx
[3] http://www.infrastructure.gov.au/roads/safety/road_fatality_statistics/fatal_road_crash_database.aspx

Submission 014
Received 30/01/12

At the same time as fatal accidents for articulated vehicles have been decreasing, Australia's freight task has grown by around 7.4% each year between 1972 and 2007. Against the backdrop of this increase, it is likely that the real rate of fatal crashes is declining much more rapidly than is evident in raw figures and that real rates are also likely to be in decline for rigid vehicles.

The 2006 National Transport Commission Report '*Twice the Task – A Review of Australia's Freight Transport Task*', prepared by Sinclair Knight Merz notes that:

- *"Involvement of freight vehicles in collisions, injuries and fatalities has fallen faster than the involvement of light vehicles in Australia, considered relative to exposure indicators such as vehicle kilometres travelled."*

The National Road Safety Strategy 2011-2020 will build on this strong performance and aims to reduce the road toll by a further 30% by 2020.

Given that fatal accidents involving heavy vehicles have declined over the same period in which freight rates have decreased, NatRoad questions whether or not the regulation of driver payments is necessarily the best way to ensure that fatality rates continue their projected decline.

5.4 Evidence Against a Resulting Change in On-Road Behaviour

NatRoad considers that there is little evidence that the establishment of a RSRT will result in a significant change in on-road behaviour. In reviewing available information, NatRoad notes the following:

- NSW RTA statistics[4] indicate that the heavy vehicle driver is at fault in only 31% of fatal crashes involving a heavy vehicle. It cannot be expected that driver remuneration will have any bearing on the remaining 69% of fatal heavy vehicle crashes.
- Despite the NTC's arguments that economic pressures associated with meeting capital overheads results in an additional incentive for owner-drivers to engage in unsafe on-road behaviour, Professor Quinlan's 2001[5] survey found that there was very little difference in the proportion of owner-drivers, small fleet drivers and large fleet drivers involved in a crash over the preceding five years in NSW.

[4] NSW RTA Presentation on 'Heavy Truck Crash Analysis Data', November 2010.
[5] 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.

Submission 014
Received 30/01/12

- Similar research undertaken by Williamson, Feyer, Friswell and Sadural in 2001[6] indicted that crash rates were similar for all driver categories, although slightly higher for employee drivers at large firms.
- There have been accusations of selection bias[7] in the data used to support Belzer's 2002 conclusion that higher pay rates are associated with safer on-road behaviours. Taken in conjunction with supporting information presented in the 2008 NTC report, an alternative conclusion could be that larger, more profitable and professional transport businesses are able to invest more heavily in both driver remuneration and company based safety initiatives (hence the possible association between remuneration levels and safety outcomes). Further, NatRoad considers it highly unlikely that a 10% increase in driver remuneration would result in a 36% reduction in crash risk. This implies that a 30% increase in remuneration would eliminate all heavy vehicle crashes which is particularly hard to believe given that the proposal would have no effect on the 69% of fatal crashes for which the driver of the heavy vehicle involved in not responsible.
- While the 2008 NTC report[8] concludes that the NSW Chapter 6 system (which has a capacity to set minimum rates for short haul drivers) has not affected the level of competition among short haul drivers in that State, the NTC has made no effort to investigate whether or not the existence of minimum rates has led to an improvement in safety outcomes for affected drivers. It might be expected that both observations could be made if the data was in fact of sufficient rigour to support the assertion that there has been no effect on competition.

5.5 Classic Economic Theory

Establishing a safe rate will not remove the supposed economic incentive to break the law. Increasing remuneration at the lower end of the spectrum may in fact promote such behaviours.

It is generally agreed that the response of workers to increases in remuneration is not linear as illustrated in Chart B below.

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[6] 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.

[7] ACIL Tasman (2003) Freight Rates and Safety Performance in the Road Freight Industry.

[8] National Transport Commission Report (2008), Safe Payments: Addressing the Underlying Causes of Unsafe Practices in the Road Transport Industry.

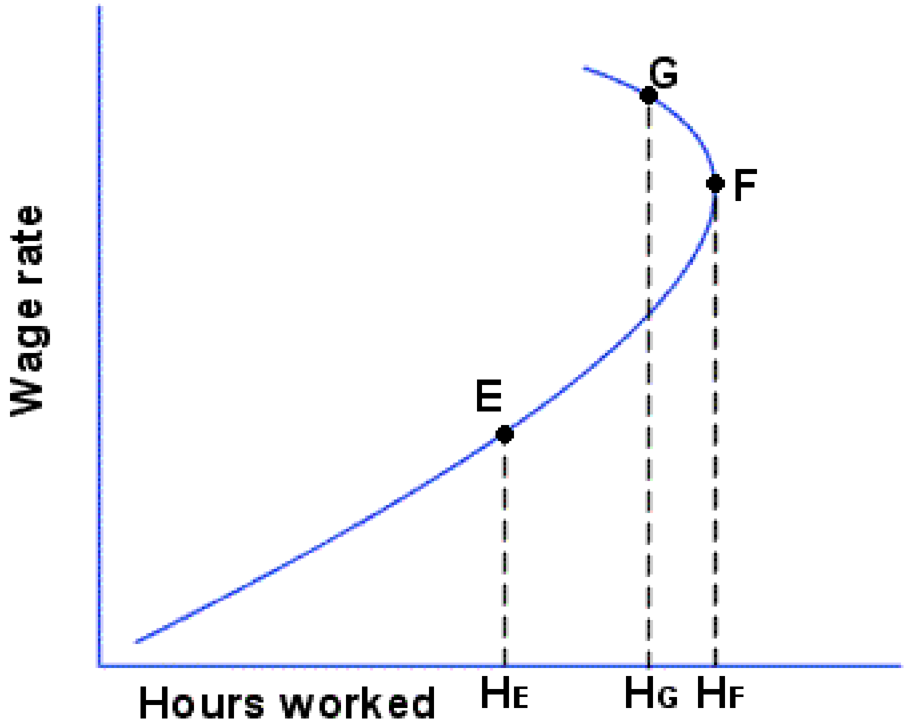

Chart B: *Example of Classic Labour Supply Curve*

Workers will for a time increase their labour availability in response to increased wages, particularly at the lower end of the payment scale. This is because higher rewards will generally increase their incentive to work while at the same time decreasing the relative attractiveness of leisure time because the opportunity cost associated with not working becomes greater.

Labour economists argue that at some point this trend begins to reverse, resulting in 'U' shaped elasticity curve. It is theorised that this reversal occurs because there comes a point when an individual worker no longer needs to undertake further work to cover all of their expenses and save surplus income (which cannot be fully spent in their remaining leisure time and further saving becomes meaningless due to already sufficient wealth accumulation). Put simply, there is no point earning more money if you can't spend it.

The thrust of the tribunal is clearly aimed at lower paid workers who earn less than the average wage or an otherwise applicable road transport award. These workers would evidently be situated at the lower end of the wage spectrum shown in Chart B. It follows that these workers are likely to increase, rather than decrease, their labour availability in response to a Road Safety Remuneration Order (RSRO) which marginally improved remuneration levels for these workers - which if the assumptions underpinning the establishment of the tribunal are correct, would supposedly increase any economic incentive to break the law.

5.6 The Opinion of Road Transport Operators

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. So let's ask a key stakeholder group who's behaviour may be expected to change – road transport operators.

The NatRoad January 2012 survey (see section 4.1) indicated that 78% of the 105 respondents were aware of the bill or the theory underpinning the 'safe rates' proposal. However, the vast majority (74%) of transport operators rejected the notion that increasing driver remuneration would improve on-road safety outcomes (Table 2).

	%	%
# Trucks	Yes	No
0 to 2	44	56
3 to 19	18	82
20+	14	86
All	26	74

Table 2: *Q: In General, do you think that that increasing driver remuneration will improve on-road safety outcomes?*

While this opinion is more pronounced among medium and large businesses who generally take a more holistic view of safety matters due to obligations arising under the chain of responsibility, it is important to note that the majority of smaller operators who are predominantly owner-drivers also hold this view.

As indicated in Table 3 below, the majority of transport operators of all sizes (71% overall) also considered that the establishment of specific sectoral RSROs would act to make the regulatory environment more complicated. Anecdotally, those who did not think so generally felt it could not get any worse.

	%	%
# Trucks	**Yes**	**No**
0 to 2	69	31
3 to 19	70	30
20+	75	25
All	71	29

Table 3: *Will specific sectoral orders complicate the regulatory environment?*

Over 80% of road transport operators felt that there are more effective safety initiatives available that could be pursued in preference to establishing a RSRT (Table 4). Anecdotally, respondents mentioned roads, driver training and better enforcement of existing regulations as better options.

	%	%
# Trucks	**Yes**	**No**
0 to 2	69	31
3 to 19	85	15
20+	89	11
All	81	19

Table 4: *The RIS estimates that 8 deaths and 29 serious injuries will be prevented annually at a net cost to the industry of -$228.4m over ten years. Would alternative safety initiatives be more effective?*

5.7 The Regulatory Impact Statement

The RIS acknowledges that there is considerable uncertainty about the quantum of safety benefit that might arise from the proposal. In various parts the RIS notes that:

- *"...data is limited and being definitive around the causal link between rates and safety is difficult";*
- *"...studies and academic literature have not conclusively proven the extent to which rates and safe transport outcomes are related..."; and*

- *"The CBA results need to be treated with caution due to a wide range of assumptions in the face of incomplete and uncertain data."*

The RIS indicates a net negative Cost-Benefit Ratio of around -$228.4m over 10 years, even after savings arising from safety improvements are included.

NatRoad believes that this figure is likely to be a gross underestimate of the true impact and would be much higher if broader regional and economy-wide impacts were also taken into account.

NatRoad recommends that the Government should not proceed with any proposal that will produce a negative impact on the road transport industry and should refer bill and RIS to the Productivity Commission for a full economy-wide analysis.

5.8 Compliance

The problems with enforcing legally required minimum payments are identified at page 35 of the 2008 NTC report. NatRoad of course recommends to all operators that they must at least adhere to the minimum pay and conditions contained in an applicable award.

The heart of the issue lies in the myriad of complicated or ad hoc contracting arrangements used throughout the industry and the fact that the drivers who are currently breaking the law are the least likely to comply with a new regulatory regime which overlaps with the laws they are supposedly already breaking.

NatRoad suspects that the most likely outcome is that good operators will be slugged with another layer of regulation while the industry 'cowboys' will continue to operate as they do now. If this is the case, NatRoad questions whether or not RSOs have the potential be an effective tool for improving safety.

6.0 Impact of the Proposal

The primary impacts of establishing a safe rate will be to impose:

- a general increase in labour costs in the transport sector; and
- an additional regulatory burden associated with operating and enforcing the new regulatory system.

Submission 014
Received 30/01/12

The financial impacts will however be different for employee drivers, owner-drivers, road transport businesses and the economy, each of which are examined below.

6.1 Transport Costs and Freight Rates

Before considering the financial impacts of the proposal it is necessary to first examine the relationship between transport costs and freight rates.

As it is not proposed to regulate freight rates directly, freight rates will continue to be set by the market's willingness to pay for transport services.

There are differing levels of competition in the marketplace. There is higher downward pressure on freight rates for generic freight on high volume routes. Freight rates may be sustained at higher levels on specialist or lower volume routes.

The 'Safe Rates' Directions Paper states that real freight rates have generally been in decline for the past 30 years, but that there has been a real increase of 9 per cent over the past seven years – attributable to increases in diesel fuel prices. This situation suggests that competition between large and small operators has now reached the point where real freight rates can only be decreased in response to productivity improvements and increases in costs such as fuel become readily apparent in the freight rate.

NatRoad understands that current contracting arrangements for transport services often include a fuel surcharge which can be varied in response to fuel price movements. Other cost elements remain fixed for the duration of the contract. The widespread use of this arrangement indicates that customers recognise the low margins in the freight sector and are willing to pay for fuel price movements, but are generally unwilling to bear the risk of changes in other cost components, including labour costs.

6.2 Employee Drivers

One of the likely outcomes of the proposal is for orders which increase the minimum rate of pay for employee drivers. However, in order for safety outcomes to be achieved, it would appear that there is an implicit assumption that drivers will choose to work less, or at least reduce their productivity level (i.e. reduce the distances they drive or the number of trips made), while maintaining their current income level.

NatRoad considers that this assumption is fundamentally flawed and that it is most likely that employee drivers will either:

- continue to engage in current practices, albeit for higher remuneration, because other factors such as high levels of competition, long contracting chains, poor bargaining positions and employer demands will remain the same; or
- increase the amount of driving undertaken because higher remuneration will simply increase the attractiveness of doing so.

The effect will therefore be to increase the total annual remuneration for employee drivers and, in line with the classic economic theory outlined at section 5.5, possibly also increase their incentive to drive longer hours or longer distances.

6.3 Owner-Drivers

NatRoad is aware that there are some owner-drivers who are struggling to understand their cost structures and feel pressured to accept work at rates that may be unsustainable. NatRoad considers that this issue is more directly related to driver education, information transparency and market positioning than safety matters which are already strictly regulated.

One of NatRoad's key concerns is that intervention by the proposed tribunal will cause the structure of the freight market to be distorted in favour of employee drivers or alternative forms of transport – jeopardising the livelihoods of owner-drivers. The NatRoad January 2012 survey indicated that around half of all respondents would reconsider the use of sub-contract drivers if equivalent rates and conditions were imposed (as compared with employees Table 5).

	%	%
# Trucks	**Yes**	**No**
0 to 2	58	42
3 to 19	52	48
20+	45	55
All	51	49

Table 5: *Q: Would you reconsider the use of sub-contractors if equivalent rates and conditions were imposed?*

As outlined previously it is unlikely that the market will be willing to bear a sharp increase in freight rates and it is therefore probable that the imposition of an order mandating a minimum rate of remuneration will cause marginal freight to become uneconomic and lead a loss of work for some sub-contractors.

If the tribunal was to also limit the hours that could be worked by owner-drivers, their relative costs of operation would increase due to the requirement to service a large capital overhead (i.e. a truck) which would become under-utilised. Some longer trips might become impossible for sub-contractors and would become the sole preserve of fleet operators who can arrange change over drivers or have greater flexibility in the way that logistics are managed.

Freight flows in Australia are generally not asymmetric and many operators find it difficult to secure work on one leg of a round trip. 'Backloads' are however a common occurrence and are critical to the efficient movement of freight in Australia. In essence, an operator will often accept a substantially discounted trip rate in preference to making a trip with no load at all. If a minimum rate was established for such trips some operators would either be prevented from obtaining any payment for one leg of a trip or would have to do so in breach of a RSO - exposing themselves to prosecution and penalty. It would be a perverse outcome if decisions of the tribunal resulted in empty trucks travelling around Australia.

There are many examples that illustrate the unintended impacts of establishing a mandatory minimum freight rate for owner-drivers. For instance, contract determinations in the NSW quarry industry that established minimum rates for sub-contractors were at first greeted with great fanfare by some drivers but later recognised as the cause of the gradual displacement of sub-contractors by company operated fleets (e.g. Boral). There are other examples where companies have been taken over and the new owners have immediately replaced sub-contract drivers with employees because the generous entitlements accrued by the sub-contractors made employees look relatively attractive.

Of particular concern to many drivers is the potential for a RSRO to become the standard rate for all freight movements. In many cases, the application of a minimum rate will represent a significant decrease in the rates currently paid to drivers who have secured superior rates as part of regular contract negotiations. Many consignors will immediately question why they should offer more than the standard rate contained in an RSRO when tendering contracts to the market.

Overall, NatRoad considers that the net financial impact of the proposal for owner-drivers will be negative due to:

- a reduction in work availability as marginal freight becomes uneconomic;
- loss of flexibility to accept backloads or other ad hoc arrangements that are important for maintaining customer relationships and for dealing with freight imbalances between major population centres;
- the likelihood of a shift from owner-driver to employees;
- diminishing business independence;

Submission 014
Received 30/01/12

- an increase in the overall regulatory burden;
- greater oversight by interested unions (resulting in a higher probability of direct penalties or costs associated with defending adverse claims); and
- the clear potential for superior payments to be reduced to the mandated minimum rate.

6.4 Road Transport Operators

Transport companies operate in a highly competitive environment that requires moving large volumes of freight at very low profit margins. Small to medium operators are generally unable to influence the market freight rate and any increase in costs must be internalised as a lower profit margin. This has been the experience with recent increases in registration and fuel excise charges.

The imposition of a RSRO will directly impact on these transport operators by increasing employee labour costs as well as the cost of utilising sub-contractor services. Given the strong likelihood that a general increase in labour costs will not be able to be passed on to customers, the financial impact of the ‘safe rates’ proposal will be negative.

In the context of the stated aim of the ‘safe rates’ proposal, a reduction in the profitability (or indeed viability) of transport companies is a disturbing outcome. Transport companies are ultimately responsible for fundamental safety issues including truck maintenance, scheduling, loading and route selection. Any shift in the remuneration ratio between operators and employee drivers will also represent a shift in the supposed incentives for unsafe behaviours. Adding financial pressure to transport operators will increase the incentive for these companies to cut costs in other areas in order to maintain a reasonable profit margin that ensures the ongoing viability of the business.

6.5 Economy Wide Impacts

The transport sector is of critical importance to the Australian economy. The 2005 Productivity Commission Review of National Competition Policy Reforms (2005) makes the point that:

- *“Given Australia’s size and distance from major overseas markets, an efficient and cost-effective freight transport system is particularly important to the competitiveness of Australia’s manufacturers and exporters, and ensuring consumers benefit from the lowest possible prices. A cost-effective and efficient freight transport system can also help to ameliorate the consequences of market fragmentation, which can arise because of the wide dispersion of Australia’s population centres”.*

Almost all goods sold within, or exported from Australia, have a transport cost component. This includes food, building materials, manufactured goods, industrial inputs and manufactured goods. In general, goods are produced or assembled in industrial areas away from major markets.

Driver wages are a key component of the cost of moving goods by road transport within Australia. The RIS estimates that the proposal will have a net negative impact on the transport sector in the order of approximately $228.4m over ten years. A sharp increase in labour costs will either:

- lead to higher freight rates;
- reduce the profitability of transport companies;
- distort freight movements;
- distort the 'employee driver : owner-driver' ratio;
- reduce efficiency (and therefore productivity) as drivers reduce their hours worked or distances travelled for a given level of remuneration; or
- result in some combination of the above outcomes being exhibited as the market comes to a new equilibrium.

Whatever the outcome, increased transport costs will need to be borne by the Australian economy as an increase in the cost of production and a resulting decrease in relative international competitiveness. Perhaps the most acute impacts will however be felt in regional Australia where a significant number of transport companies are located and where the tyranny of distance from major manufacturing centres or ports is most severe.

As outlined in Section 5.7, The RIS does not however attempt to quantify the economy-wide impact of the proposal which NatRoad expects would dwarf the impact on the transport sector alone.

Productivity growth has been sluggish in Australia since 2000 and at just 1.1% it is increasing at only half the rate of the preceding decade. At the same time, underlying wages growth has been rising at three to four times the rate of productivity growth – a level that, in the longer term, is unsustainable.

Productivity is important for many reasons, primarily because it is the primary mechanism for funding increased wages and supporting improvements in Australia's GDP. Treasury's 2010 Intergenerational Report states that:

- *"Productivity is the key to higher economic growth in the face of an ageing population. Policies that support higher productivity, including investments in nation building infrastructure and skills and education, will raise economic growth, improve living standards and enhance Australia's capacity to fund the fiscal pressures of an ageing population*".

The *Road Safety Remuneration Bill 2011* does not support higher productivity. In fact, the 'safe rates' proposal represents a departure from the traditional approach of linking awards to the C10 classification of the Metal Industry Award and determining minimum wage increases based upon improvements in productivity of employee and the profitability of employers.

Given the lack of definitive evidence proving that the proposal will necessarily result in a quantifiable safety improvement, the establishment of the RSRT in the transport industry represents a dangerous precedent with implications for all industries and therefore Australian productivity in general. The successful establishment of a RSRT would no doubt signal the commencement of a broader union campaign for similar arrangements in other industries where safety is a concern including mining, construction and agriculture.

Submission 014
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7.0 Consequences of Rejecting the Proposal

Given the likely opposition of significant segments of the transport industry to the proposal, it is useful to consider the consequences of rejection.

In the absence of the proposed regulatory intervention:

- The total freight task in Australia will continue to increase by around 7.4% annually;
- Road accident fatality rates will continue to improve in raw terms by around 3.0% annually for heavy vehicles and around 2.2% for all vehicles (These figures are significantly larger in real terms after taking into account the increasing freight task);
- Freight rates will remain highly competitive and may continue to decline in real terms due to the use of performance based payment methods, industry consolidation, improvements in communication technologies, improvements in road and port infrastructure, and the increased use of high productivity vehicles.

Productivity and safety improvements are vital for supporting Australia's economic and social development as well as maintaining a competitive position in rapidly globalising markets. In the absence of the *Road Safety Remuneration Bill 2011* it is projected that the Australian transport industry will move more freight, more safely and more cheaply.

NatRoad considers that this projection represents the continuation of an Australian success story with benefits for all sectors of the economy and in no way creates an impetus for the proposed regulatory intervention.