ARTIO
Australian Road Transport
Industrial Organisation
ABN: 63 734 697 902

AUSTRALIAN ROAD TRANSPORT INDUSTRIAL ORGANISATION

Respect, Respond and Represent

31 January 2018

Committee Secretary
Select Committee on the Future of Work and Workers
PO Box 6100
Parliament House
CANBERRA ACT 2600
AUSTRALIA

By email: futureofwork.sen@aph.gov.au

Dear Sir/Madam

Please find attached the submission of the Australian Road Transport Industrial Organisation (ARTIO) to the Select Committee on the Future of Work and Workers.

If our submission is accepted, we are aware that it will be published on the Committee's web-page and therefore will be generally accessible.

Please contact the undersigned should you require any further information. ARTIO would be prepared to discuss in more detail some of the issues and ideas raised in our submission should the Committee consider this to be a productive use of its time.

Yours faithfully

Peter Anderson
Secretary/Treasurer

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AUSTRALIAN ROAD TRANSPORT INDUSTRIAL ORGANISATION (ARTIO)

SUBMISSION TO THE SENATE SELECT COMMITTEE ON THE FUTURE OF WORK AND WORKERS INQUIRY ON THE IMPACT OF TECHNOLOGICAL AND OTHER CHANGE ON THE FUTURE OF WORK AND WORKERS IN AUSTRALIA

1. Scope of this Submission

This submission, which is made on behalf of the Australian Road Transport Industrial Organisation, (ARTIO), and its Branches, provides an employer organisation perspective on issues related to the role of technological change and other developments which impact on the future of work and workers engaged in the road freight industry. It considers how technological change has altered the industry from an employment perspective. This submission also aims to identify likely opportunities and constraints related to the adoption of new technologies in the industry.

2. ARTIO

ARTIO is an Industrial Organisation of Employers registered under the Fair Work (Registered Organisations) Act 2009. It represents employers in the transport and logistics industry. As at 30 November 2017, it had around 400 members. These include the large multi-national transport companies down to the small family owned businesses that perform a large percentage of Australia's freight task.

ARTIO operates as a federation with Branches in all States, except South Australia. ARTIO and its Branches operate independently and in accordance with a common set of rules applying across the Organisation.

ARTIO Council, which has a representative from each State, meets on a bi-monthly basis to consider and discuss industrial relations (IR) issues impacting on the organisation and its members. Much of its day-to-day activities are carried out by the Branches, especially when dealing with operational IR issues.

3. *Employment Characteristics of the Road Freight Industry*

Employment in the road freight industry is both physical and labour intensive. It is trite to observe that it is an industry which suffers from higher than average death and injury statistics.

According to the Australian Bureau of Statistics, (ABS), an estimated 625,000 workers are employed in the transport and logistics sector, which comprises freight and passenger transport in all transport modes as well as postal and courier services, warehousing and related industry functions. This can be broken down as follows:

a. Road transport - almost 260,000 workers, mainly in road freight.
b. Postal and courier industries - almost 95,000 workers.
c. Rail, sea and air transport combined – approximately 112,500 workers.
d. Warehousing, support services and other transport and logistics work – approximately 162,500 workers.

The transport and logistics sector can also be broken down by occupation. This shows:

a. Over 280,000 workers are drivers and operators.
b. Over 105,000 workers are managers/professionals.
c. Approximately 175,000 workers are in clerical and sales roles.
d. Approximately 37,500 workers are manual labourers.
e. Approximately 25,000 workers are in technical and trades roles.

Employment in road transport, including in the postal and courier industries continues to grow. In recent years, employment has risen in all of the above occupations with the exception of technical and trades roles. Growth has been particularly strong (11-12 per cent in the five years to 2016) in the driver/operator and manager/professional categories compared to 6 per cent across the sector as a whole.

Workers in the transport and logistics sector are, on average, older than all other sectors of the economy with an average age of 45 and an estimated 25 per cent over the age of 55. Approximately 75 per cent of all workers in the sector are male. In the road freight industry, this percentage is thought to be around 85 to 90 percent.

In terms of employment status, the sector can be broken down as follows:

a. 53 per cent of workers work permanent full time.
b. 6 per cent work permanent part-time.
c. 21 per cent work casual.
d. 5 per cent are in owner/manager roles.
e. 5 per cent are owner operators.

Part-time workers comprised only about 8 per cent of the sector's work force in the mid-1980's. The proportion of workers defined as underemployed using the ABS definition (someone who wants to work more hours) has increased from about 4.2 per cent in 1991 to about 7.7 per cent in 2016. These sector wide trends in transport and logistics are likely to be repeated in the road freight industry and are likely to reflect both the expectations of employers and, for some employees, a preference for part time work.

4. The Road Transport Industry and the Australian Economy and Society

The road transport industry connects all Australians because it is involved in the transport, storage and distribution of almost all goods purchased, sold, exported and imported. The industry only exists because Australians want goods moved from one place to another and they rely on road transport operators to undertake that task.

The industry can be divided into hire and reward operators, or businesses established for the sole purpose of providing transport and related services, and ancillary fleet operators who run a truck fleet which is ancillary to their principal business purpose, usually in the agriculture, construction or manufacturing sectors. There are over 30 sectors, plus many sub-sectors, in the road transport industry. The more obvious ones are:

a. Livestock
b. Forestry
c. Dairy Industry
d. Grains, Cotton and Sugar Cane
e. Horticulture and Viticulture
f. Defence Forces
g. Taxi Trucks, Couriers and Messengers
h. Over-dimensional and Heavy Haulage
i. Container Cartage and Storage
j. Warehousing (Bond, Free, Contract)
k. Contract Distribution
l. Long Distance Road Freight
    i. Intrastate General
    ii. Interstate General
    iii. Express
    iv. Bulk
m. Tip Trucks
    i. Quarried Materials
    ii. Excavated Materials
    iii. Coal and Minerals
n. Freight Forwarding
    i. Air

   ii. Sea
   iii. Rail
o. Motor Vehicles and Farm Machinery
p. Manufactures:
   i. Aluminium, Steel and Timber Products
q. Furniture Removals and Storage
r. Bulk Tankers – Liquid and Dry Goods:
   i. Local
   ii. Intrastate
   iii. Interstate
s. Concrete Agitating
t. Refrigeration
   i. Chilled.
   ii. Frozen
u. Food and Beverages
v. Country Carriers
w. Dangerous Goods
x. Armoured Vehicles
y. Waste Management
z. Ancillary Transport
   i. Agriculture.
   ii. Building and Construction
   iii. Manufacturing
   iv. Mining
   v. Retail and Wholesale

Other characteristics of the industry are:

a. Seasonal factors – harvests, religious and cultural events.
b. Cyclical factors – the ups and downs of particular sectors of the economy as well as the economy as a whole.
c. Regular work, for example picking up milk from farm to deliver to factory and then to retail outlets.
d. Irregular work, for example the delivery of specialist machinery or equipment to a mine site.
e. Contract work, for example pick-up and delivery of spoil and fill at a construction site.
f. Full time, part-time, casual and 'gig' work in relationships either between employers and employees, or between principal contractors and sub-contractors which are driven by the regularity of work and the industry sector, including those described above.

Over the long term, the industry has grown faster than the economy as a whole. This is due to improvements in the standard of living of Australians and their purchasing patterns as well as a shift from other transport modes to road. The industry operates on a 24/7 basis, 365 days a year across urban, regional, rural and remote Australia conducting local, long distance and intermodal transport.

It is clear from the list of sectors herein that it is essential that Government, at both Federal and State levels, provides the necessary infrastructure to enable the road transport industry to operate in an efficient and cost-effective manner. It is unfortunate that the industry has to regularly approach governments, including at the local level as well, to seek continuous improvement around that infrastructure.

This is especially important in the current environment where Governments, especially Federal, NSW and Victoria, are engaged in major infrastructure construction. This work is required but it will impact on the road transport industry and add additional costs to the transport supply chain as trucks are held up over the next five years due to this construction work.

Additionally, those trucks required to move the millions of tonnes of spoil surrounding these projects will require careful management to protect those working in those sectors of the industry as well as the general public.

With the emergence of the 'gig' economy, there is the potential for the abuse of contractors supplying transport services to those construction companies contracted to build the particular projects. Generally speaking, this will be often be the relevant Government and/or a statutory authority created to manage such a project. This can clearly create tension between, on the one hand Government as the infrastructure provider and, on the other hand as the payer to those contracted to provide that infrastructure at the cheapest price available.

There are at best, inadequate protections currently available to protect those workers engaged on a 'gig basis' as the law does not regard them as employees, so there are no industrial instruments available to provide basic protections for them. Nor, does it appear that they get any protection under the principle of 'common law contract'.

5. The Benefits of Technological Change

Recognised benefits of technological change in a workplace context in the road transport industry include:

a. Improved safety, wherever human shortcomings can be addressed through automation, improved design and engineering and other technological advances.

b. Savings due to larger production runs, improved productivity in vehicles and other equipment, lower fuel costs and higher labour productivity.
c. Lower fuel consumption.
d. Lower greenhouse gas emissions.
e. New areas of employment directly related to a new technology, including new products and services, new occupations, greater specialisation and new work methods.

6. Road Transport and Technological Change - What History Tells Us

The road transport industry is characterised by ongoing, incremental technological change however, such change can also be significant and disruptive. Incremental technological change is apparent in improved design and engineering as well as the increased specialisation of rigid trucks, prime movers, trailers and the components thereof. These innovations aim to improve the safety of all road users or reduce damage to loads. There are many others which, together, have made the industry safer, more productive and in an operational sense more flexible. This has led to a more flexible regulatory regime, for example incremental increases in vehicle dimensions and mass limits. Together, these have contributed to the long term relative improvement in competitiveness against other transport modes.

Examples of industry or sector-wide technological change include the introduction of motor vehicles, the container and the pallet. Other examples relate to the use of satellite tracking technology to do such things as monitor vehicle location, speed and operating time as well as improve the allocation of transport tasks.

Occasionally. the adoption of new technology can take a long time. It took over two decades from the invention of the internal combustion engine before mass production led to a significant reduction in manufacturing costs and an uptake in the rate of adoption of passenger transport and freight tasks by motor vehicle. Horse transport in Australia persisted in well established, successful businesses until after the end of World War II. A whole new body of what is very complex road law was developed to ensure motor vehicles were regulated having regard to issues such as safety and access. The sharp increase in car ownership after World War II saw governments redirect transport network funding from rail and tram to road, especially in urban areas and on intercity routes to facilitate more widespread adoption of what was at the time a 60-year old invention.

Pallets and containers were adopted on a large scale much more quickly because the commercial, legal and other constraints which slowed down the adoption of motor vehicles were not present. Their modular characteristics, low production costs per unit and easy application across freight modes substantially reduced loading, unloading and spoilage costs

and improved workplace safety. These innovations were applied to many different types of transport task. Satellite tracking technology is also widely used and was quickly adopted due to low costs and a wide range of operational applications.

The significant improvements in productivity, efficiency, safety and reliability arising from these innovations substantially reduced transport costs and led to strong growth in employment, especially in the road freight industry.

6. *Driverless Vehicles*

Driverless vehicles can be expected to face many constraints which also affected motor vehicles early in their development. It is instructive that driverless trucks are common at mine sites and that automated straddle cranes are widely used by stevedores at Australia's large container ports. The use of automated forklifts and other industrial vehicles in warehouses is also growing rapidly. As was the case with the container and the pallet, their adoption is not hampered by cost, or legislative or network constraints.

Vehicle manufacturers have already incorporated automated features such as lane departure warning systems and speed adaptation. However, automation in situations which require a greater level of judgement, dealing with uncontrollable environments, such as animals wandering onto roads and the need to be able to respond quickly to the changing traffic environment require further development. Motor vehicle manufacturers and IT companies are allocating huge amounts to research and development to address these shortcomings.

With both horse drawn vehicles and motor vehicles, road infrastructure was built having regard to vehicle characteristics, traffic demand and the viability of other modes in terms of choice, cost and capacity to do the transport task. To ensure infrastructure is in place to enable autonomous vehicles to operate will require considerable investment in roads, communication systems, vehicle to vehicle interfaces and other network requirements.

Other barriers to implementation of driverless vehicles include:

a. Regulation – new rules and systems for monitoring, compliance and enforcement which are aligned to and compatible with driverless systems as well as safety and reliability expectations and requirements.
b. Safety assurance – considerable research and experimentation, including in real world environments, will be necessary to ensure driverless systems are safe and reliable.
c. Social acceptance – road users and the broader community will need to be convinced that driverless vehicles, including heavy vehicles, are acceptable.

d. Investment – businesses will need to invest in driverless vehicles as well as computer software and programs, communications and data systems, and training.
e. Management capacity – most road transport operators have small fleets and can be expected to be late adopters because of the costs involved.
f. Asset utilisation - transport operators will want to get full use out of existing equipment.
g. Integration into existing systems of work processes, equipment, infrastructure and cultural norms.

Adoption may also be more difficult in some specialist sectors referred to earlier such as dangerous goods, livestock or furniture removals transport, or where the economic case for infrastructure upgrades may not exist, especially in rural and remote areas. Adoption of driverless vehicles is likely to reflect the experience in moving from the horse to the motor vehicle – it may even take longer. ARTIO's view is that there is likely to be somebody at work in the driver's seat of a road vehicle for the foreseeable future.

7. *The Impact of the Gig Economy in Road Transport*

Innovation based on new technologies is leading to a fundamental reorganisation of work and relationships between those who provide that opportunity and those who undertake the work, particularly where the costs of adoption are minimal and economies of scale can be easily realised.

Businesses which have established digital on-line platforms such as Uber are driving the rapid development of the gig economy, or an economic environment where work comprises a series of one-off transactions which have been common in the taxi or entertainment industries. In the road freight industry, platforms have emerged in relation to areas such as food deliveries performed by companies like Deliveroo and Foodora. They operate in a similar manner to loading agents in long distance road transport where a driver, usually an owner-driver, may rely on regular or irregular load/s for a return journey. These platforms are distinct from courier businesses which usually involve tied principal contractor/sub-contractor relationships, vehicles and bicycles painted in the principal contractor's colours and more structured and secure work.

Platform owners provide the infrastructure whereby a consumer, (passenger, consignor or consignee), can request provision of a service by a transport operator through its commercial relationship with the platform owner. As is the case with the courier business, economies of scale can generate low overheads while setting rates for customers, remuneration and minimum operating standards for contractors, and 'clipping the ticket' on each job or gig. The contractor provides the equipment (car or bicycle and communications infrastructure), meets operating costs to generate work and are allocated one-off gigs.

These commercial relationships sit outside traditional employer/employee and principal contractor/sub-contractor relationships in the industry and, arguably, threaten standards of remuneration and working conditions even though the ad hoc nature of the work involved may of itself be attractive to contractors engaged through platform owners. Whether this type of work remains attractive to a section of the labour market may depend on market characteristics such as the level of underemployment. Irrespective, the scope and extent of regulatory obligations imposed on platform owners, including those in workplace law, is substantially less than that of transport operators. Platform owners rely on the definition of their business as being outside both the road transport industry and the employer/employee relationship.

Platform owners are less likely to enter industry sectors where there is are relatively few transactions, where there is more of an emphasis on the quality of the work performed, the skill level required, or where a greater level of judgement is required in executing the transport task which will limit their expansion in the industry. However, expansion is conceivable wherever they have the capacity to provide a more efficient platform for connecting consignors and consignees with transport operators.

Legislation has not kept pace with changes in work arrangements in the gig economy which means a detailed review of current employment legislation, with a particular focus on its adequacy and efficacy is justified, especially around the nature of the 'employment relationship' or engagement. It is noted that some UK Tribunal decisions, involving Uber, are having an impact on the law surrounding this area.

Currently, the law recognises employees or independent contractors and perhaps it is time that Government considers the need to protect workers by introducing a further legal concept of 'dependent contractor' to provide protections to those workers who are not employees nor independent contractors, but rather, earn their living by providing regular services through a technological platform on a regular basis – examples include Air-tasker, Uber, Deliveroo and related operations.

ARTIO believes that there needs to provide more clarity around the legal definitional issues that have developed in the employment law area – this impacts wages and conditions, job security, superannuation, workers compensation and applicable minimum employment standards around leave, working hours etc which currently exist in the National Employment Standards (NES).

There is also a very important issue around workplace health and safety – if the employees of traditional transport operators with OH&S systems and regimes in place are being replaced by 'gig workers' receiving jobs from a particular platform, then the question of driving hours, fatigue

management and related OH&S training becomes a bigger concern for society. Related to this issue would be the need to determine how those 'gig workers' would be protected from injury 'arising out of or in the course of employment' under general workers' compensation insurance. Is it time to re-consider the development of a national workers compensation scheme?

8. Adapting to Change

While the adoption of new technologies and ideas generates many more benefits than costs, it is important that the benefits are spread widely and are not confined to the innovator such as the platform developer. They should be rewarded for their risk and enterprise but not necessarily at the expense of workers who gain work through such businesses. Legislative and institutional change usually occurs after the event. The starting point, as stated earlier is to review its adequacy and efficacy.

One of the most significant costs is loss of employment, especially in occupations that become obsolete. However, new occupations also emerge which often urgently require skilled workers. Chronic shortages can exist in other occupations such as truck driving.

It is important that training and other support be provided to workers under threat of redundancy either to provide a dignified retirement or the opportunity for a sustainable future as a worker. Unlike most industries and professions, the road transport industry lacks a robust institutional framework to assist employees in occupations related to driving and warehousing. There is heavy reliance on the graduated licencing system managed by road agencies but little else.

History suggests the road freight industry will continue to need drivers, especially for the foreseeable future. Improvements in the institutional framework which extend beyond the graduated licencing system to better provide work opportunities for drivers can assist workers elsewhere in the economy who face an uncertain future due to technological change.

9. Conclusion

In conclusion, ARTIO makes the following observations:

a. History continues to demonstrate that the adoption of new technologies and ideas delivers benefits to the broader community, including in relation to work opportunities and increased employment. This is evident in the road freight industry which has experienced sustained employment growth over many years.

b. Technological change is adopted more rapidly when there are no or negligible barriers due to legislation, infrastructure, social acceptance, cost, asset value, investment or capability of employers, management and other workers. This is evident in improvements in the quality and safety of motor vehicles and the adoption of innovations as diverse as the container, the pallet, satellite tracking and the use of digital on-line platforms.

c. Adoption of new technologies can slow down considerably when some of those barriers are present. This was evident in the uptake of motor vehicles at the expense of horse drawn vehicles. These barriers can also be expected to slow down or even inhibit the adoption of driverless vehicles, especially in industry sectors or on those parts of the network where skill, judgement, personal service and/or quick thinking are required.

d. Where adoption of new technology and ideas is rapid and disruptive, and clearly not in the best interests of well-run and legitimate transport businesses, ARTIO supports:
    i. A review of the adequacy and efficacy of the legislative and institutional framework, especially around employment law, including workers' compensation schemes, particularly as it relates to the gig economy;
    ii. The development of a legal concept of 'dependent contractor' to provide protections for workers in the 'gig' economy and those workers who work as a contractor but depend on a single business to provide that work;
    iii. Improvements to the institutional framework to facilitate entry and where appropriate, retraining into the road freight industry.

ARTIO

31 January 2018