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WHY THE ROAD SAFETY REMUNERATION TRIBUNAL SHOULD BE ABOLISHED

About the Australian Logistics Council

The [Australian Logistics Council](#) (ALC) is the peak body for Australia's logistics industry. It represents the major Australian logistics supply chain customers, providers, infrastructure owners and suppliers. For further information, please see attached [ALC Overview](#).

ALC Position on the Road Safety Remuneration Tribunal

ALC supports the abolition of the Road Safety Remuneration Tribunal. It has consistently held this position since the Tribunal was first proposed in 2010 and subsequently established in 2012.

ALC and its members are committed to safety, but do not believe that an industrially-focussed body, responsible for setting remuneration in the heavy vehicle industry, is the right approach to dealing with supply chain safety.

The abolition of the Road Safety Remuneration Tribunal is required for the following reasons:

- » The creation of the Road Safety Remuneration Tribunal has resulted in regulatory overlap with other laws such as the Heavy Vehicle National Law and Work Health and Safety laws, causing significant confusion, inefficiency and costs across the industry

- » It ignores, and diverts attention away from industry participants' Chain of Responsibility obligations and the important role technology can play in improving heavy vehicle safety
- » The inherent difficulty in establishing a 'safe rate'
- » The lack of definitive evidence that proves the link between remuneration and safety outcomes in the heavy vehicle industry
- » The proven negative economic impact of the Road Safety Remuneration Tribunal to the broader Australian economy
- » Safety in the heavy vehicle Industry is continuing to improve.





Regulatory Overlap

The creation of the Road Safety Remuneration Tribunal has added an unnecessary layer of regulation on the industry that does nothing to improve safety.

A range of regulatory and non-regulatory schemes already exist that adequately deal with heavy vehicle safety, including the Heavy Vehicle National Law (HVNL) and Workplace Health and Safety laws.

The HVNL includes the concept of a '**Chain of Responsibility**' (CoR) for all members of the supply chain. The law requires participants to take all reasonable steps to ensure, for example, that a schedule does not require a driver to exceed speed limits for the trip.

The HVNL also specifically manages speeding and fatigue management in the Australian road long haul sector to ensure there is a more national approach to achieving positive safety outcomes.

The Road Safety Remuneration Tribunal duplicates not only what is in the HVNL, but also what is contained in the current award system, Workplace Health and Safety legislation and independent contractors' legislation.



Improving safety through Chain of Responsibility

Improving safety in the heavy vehicle industry must be based on achieving greater compliance and awareness of Chain of Responsibility within the Heavy Vehicle National Law.

Greater focus also needs to be on enforcement of CoR rather than having attention diverted away from industry's legal obligations by the Road Safety Remuneration Tribunal.

This is particularly important given a number of proposed changes to Chain of Responsibility laws in 2016. This includes the introduction of a 'primary duty of care' into the current Chain of Responsibility that will be similar in nature to those contained in workplace health and safety legislation.

The changes will:

- » create a 'primary duty of care' on operators, prime contractors and employers
- » create a power for the National Heavy Vehicle Regulator (NHVR) to enter into an enforceable undertaking with a road transport operator to take specified steps to improve managing the roadworthiness of their fleet; and
- » expand the use of formal warnings by authorised officers.

There should also be greater government support for the introduction of mandatory telematics for long haul heavy vehicles so that current CoR laws can actually be enforced. This is a practical step likely to actually save lives rather than focus being diverted by an industrially-focussed pay setting regime.

Improving Industry Awareness and Compliance of CoR

ALC is an industry leader in raising awareness of industry participants' CoR obligations with the aim of improving supply chain compliance. ALC holds an annual Supply Chain Safety & Compliance Summit to help industry understand how CoR operates, how it is changing, and what they need to do to ensure compliance. The 2016 Summit, which will have the theme "Chain of Responsibility is all about Safety", will be held on 17–18 August 2016 at the Function Centre at Melbourne Olympic Park.

ALC also produces a regular newsletter Strengthening the Supply Chain to provide supply chain participants with up-to-date and accurate information on CoR.

Difficulty of Establishing a 'Safe Rate'

It has been demonstrated how the establishment of a so called 'safe rate' in the real world is difficult and confusing. The objections to the *Contractor Driver Minimum Payments Road Safety Remuneration Order*, and subsequent requests for it to be delayed, demonstrate the practical difficulties associated with rate setting in this area.

Rates in the marketplace vary constantly due to seasonal and demand factors. ALC is concerned that a scheme with insufficient transparency could have a counter-safety effect which is bad for both industry and the community.

ALC believes the Tribunal's Order will be unworkable in the long distance sector, because pay rates in the marketplace vary all the time, and there is no such thing as a "safe rate" at which safety applies. Furthermore, a company cannot know what a "safe rate" of pay is when a truck driver is carrying for more than one customer.

Economic Impact

According to a [2016 review of the Road Safety Remuneration System by Price Waterhouse Coopers](#), the cost of the Road Transport Order and Payments Order from the Road Safety Remuneration Tribunal is estimated to be around \$2.3 billion over fifteen years.

PWC said the abolition of the System would result in significant net benefit to the economy and community at large.

The report also referred to the high degree of regulatory overlap between the Tribunal and with other agencies that oversight road transport, safety, and workplace matters such as the National Heavy Vehicle Regulator, state road authorities, and workplace safety agencies.

No definitive link has been proven between minimum rates and road safety

ALC supports schemes that will reduce the road toll, but in our view, there is insufficient evidence that a road safety remuneration tribunal will of itself improve safety.

The Regulatory Impact Statement in 2011 commissioned for the establishment of the Road Safety Remuneration Tribunal, and undertaken by Price Waterhouse Coopers, states:

Speed and fatigue are often identified as the primary cause for a crash but it is a much harder task to prove that drivers were speeding because of the manner or quantum of their remuneration. There is some research to suggest that the remuneration for drivers is a factor in safety outcomes, however data at this point in time is limited and being definitive around the causal link between rates and safety is difficult. (Page iv: PWC Regulatory Impact Statement for the Establishment of the Road Safety Remuneration Tribunal).

The RIS also says that the Australian road transport industry generally has a strong safety performance and key safety initiatives, such as Chain of Responsibility and fatigue management laws which are being bedded down, so further improvements in road safety can be expected to continue.



These weaknesses of the RSRT were confirmed in Price Waterhouse Cooper's review of the Road Safety Remuneration Tribunal in 2016:

While there remains the potential for concern about the link between remuneration and road safety, PwC has not found any additional information to change our original view expressed in the Regulation Impact Statement we prepared for the Department of Education, Employment and Workplace Relations in 2011 prior to the establishment of the System. Namely, that the focus of the System should be on the link between remuneration and road safety and only once the link has been appropriately established should those issues be targeted proportionately and directly. (Page iii, PwC Review of the Road Safety Remuneration System).

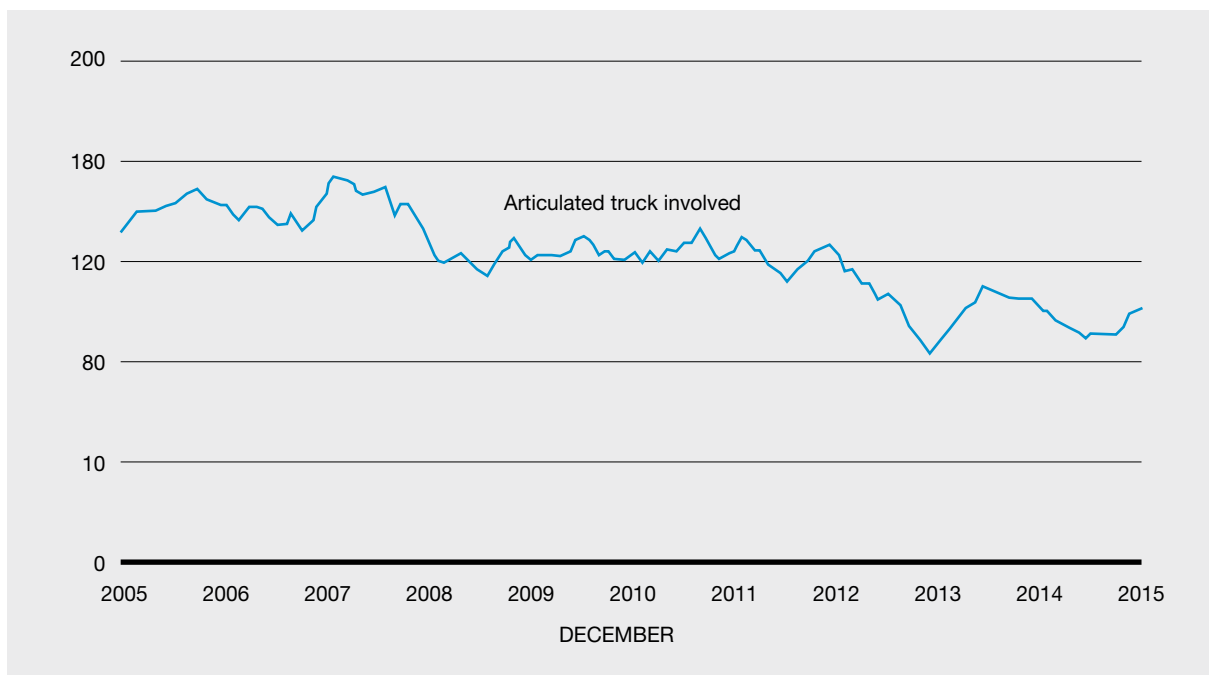
These concerns were reiterated by an [independent review](#) in 2014 of the Road Safety Remuneration Tribunal by Jaguar Consulting which recommends that the Road Safety Remuneration System should not continue in its current form.

Heavy Vehicle Safety is Improving

Statistics from the Bureau of Infrastructure, Transport and Regional Economics also show safety in the heavy vehicle industry is generally improving. BITRE's latest report (*Fatal Heavy Vehicle Crashes—Quarterly Bulletins – December Quarter*) shows fatal crashes involving articulated trucks decreased by an average of 4.5 per cent per year over the three years to December 2015.

It needs to be noted that while heavy vehicles are over represented in crashes, studies have found that in fatal crashes involving other vehicles, the other driver was at fault in 84% of the accidents (source: [2015 Major Accident Investigation Report](#), National Truck Accident Research Centre, Page 7).

FIGURE 01: Fatal crashes involving heavy vehicles, Australia – moving annual total



See http://bitre.gov.au/publications/ongoing/fhvc/files/Bulletin_Dec_2015.pdf

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