

12 December 2016

Deputy Secretary
Industrial Relations Victoria
GPO Box 4509
Melbourne Victoria 3001

Review of Victorian Laws Governing Owner Drivers and Forestry Contractors

The Australian Logistics Council (**ALC**) welcomes the opportunity to make a submission on the review of the *Owner Drivers and Forestry Contractors Act 2005 (the Act)*.

By way of background, ALC is the peak body for Australia's logistics industry, representing the major Australian logistics customers, providers, infrastructure owners and suppliers.

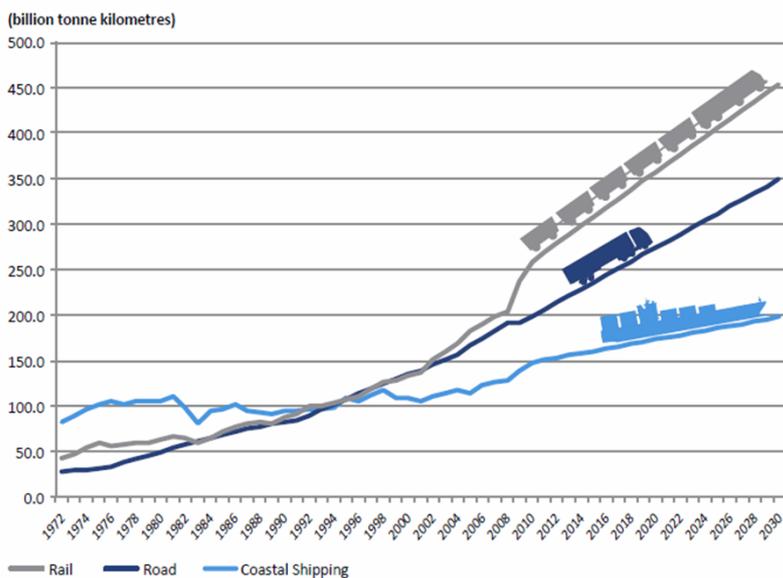
Australia's social and economic wellbeing relies heavily on ensuring Australia 'gets its supply chains right'.

A report by ACIL Allen and ALC found the Australian logistics industry adds \$131.6 billion a year or 8.6 per cent to GDP. And importantly, a one per cent improvement in efficiency will yield a \$2 billion-a-year benefit.

More efficient supply chains are a must when considering the size of freight task, and the geographical realities Australia's freight logistics industry faces.

As the graph below indicates, the national freight task has grown considerably since the 1970s.

Freight task by transport mode, 1972 – 2030



Source: BITRE 2010, Long term projections of Australian Transport Emissions: Base Case 2010, Report prepared for Department of Climate Change and Energy Efficiency, BITRE, Canberra.

This trend is expected to continue at a similar rate over the coming decades.

Infrastructure Australia predicts the national land freight task will to grow by 86 per cent between 2011 and 2031¹. The National Transport Commission also estimates Australia's freight task will increase by 26 per cent over the next decade.²

It follows that Victoria needs efficient, safe and reliable supply chains to facilitate the smooth flow of goods from production to consumption to boost economic performance.

This is because the State's freight strategy estimates the freight and logistics sector contributed between \$19 and \$23 billion, or about 8% of total economic activity to Victoria's economy in 2011.

This means that even if there are issues within the forestry industry that requires statutory intervention, the Government should be slow to further extend the reach and scope of the Act to other operators in other Victorian industry sectors.

Australia is increasingly becoming a national economy. Basic contracting standards should therefore be universal across the country.

Victoria should therefore not add specific rules that will lead to the State becoming a less attractive state to do business in because of the imposition of increased compliance costs that do not necessarily lead to net public benefit.

Bona fide independent contractors are capable of having unfair contracts reviewed by the Federal Circuit Court under the *Independent Contractors Act 2006*.

The *Competition and Consumer Act 2010* permits the ACCC to authorise collective bargaining with larger operators, whilst changes to the Act that commenced on 12 November 2016 allows for small businesses to seek review of unfair standard form contracts.

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO), in partnership with the Small Business Commissioners in New South Wales, Victoria, South Australia and Western Australia, and in association with the Council of Small Business Australia (COSBOA) and the Australian Institute of Credit Management (AICM), is conducting an inquiry to examine payment times and practices in Australia.

This report is due for report to the Federal Small Business Minister in March 2017.

Finally, recommendation 11 of the Small Business and Family Ombudsman's Inquiry Into the Effect of the Road Safety Remuneration Tribunal Payments Order on Australian Small Business was for the Department of the Treasury and the Australian Competition and Consumer Commission to work with the industry to investigate developing a Code of Conduct for the road freight industry under the *Competition and Consumer Act*.

ALC believes these current regulatory mechanisms and the outcomes of the other investigations on foot referred to above should ultimately lead to a suitable set of rules that govern how small businesses operating three or fewer heavy vehicles and larger entities

¹ Infrastructure Australia, Australian Infrastructure Plan, 2015

² National Transport Commission, *Who Moves What Where*, 2016

deal with each other.

Should the Government elect to extend regulation in this area itself, a full regulatory impact statement should be published for public comment prior to any final decision so the community can be assured that the standard public interest test used when considering legislation that may restrict competition has been satisfied, that is:

- (a) the benefits outweigh the cost of the restriction to the community as a whole; and
- (b) the objective can only be achieved by restricting competition to that extent

is satisfied.

Finally, as should be the case with all regulation, there needs to be a clear ability for the regulations to be enforced by knowledgeable authorised officers in a consistent and sufficient manner, thereby ensuring a level playing field for all industry participants.

Please contact me on 0418 627 995 or at Michael.kilgariff@austlogistics.com.au should you wish to discuss this submission further.

Yours sincerely



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