



TWU
Carrying Australia

TRANSPORT WORKERS' UNION SUBMISSION TO:

SENATE EDUCATION AND EMPLOYMENT LEGISLATION COMMITTEE

**RE: Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill
2019**

TWU Background

The Transport Workers' Union of Australia (TWU) represents tens of thousands of men and women in Australia's aviation, oil, waste management, gas, road transport, passenger vehicles and freight logistics industries.

With over one hundred years' experience, the TWU has been active in establishing industry standards that improve the lives and safety of transport workers, their families and the community.

Transport industry: state of play

Transport is an industry marked by severe financial pressure from the companies which use transport services. These companies include major retailers, manufacturers, oil companies, stevedores, freight forwarders and airports. The continued lowering of transport contract costs and increasingly late payment terms result in tight margins and low capital flows throughout the industry. Transport is often described as a price-taking industry whereby the power resides with these large companies at the top in terms of their ability to set the conditions of contracts on a take-it-or-leave basis.

Road Transport

Transport operators are often under financial strain with high numbers of companies becoming insolvent. Since 2013 over 2,500 businesses in the transport, warehouse and distribution sector have become insolvent, according to data from the Australian Securities & Investments Commission.

This financial strain has major knock-on effects for those working in the industry and the wider community.

Wage theft and non-payment of superannuation are rampant. In 2017 in a ruling on a review of transport awards, the Fair Work Commission acknowledged that, "the long-distance road transport industry is characterised by intense competition,

commercial pressure from supply chains and a high degree of award non-compliance.”

There are severe pressures on companies and workers to cut corners in safety to save costs. The evidence for this has been captured in studies by Safe Work Australia, including a 2015 survey which found that:

- 31% of transport employers say workers ignore safety rules to get the job done
- 20% of transport employers accept dangerous behaviour, compared to less than 2% in other industries.
- 20% of transport employers break safety rules to meet deadlines – this compares with just 6% of employers in other industries.

The types of safety risks include delaying vital maintenance to trucking fleets resulting in faulty and dangerous trucks operating on our roads. Risks also include drivers forced to drive long hours, speed and skip mandatory rest breaks.

The results of these risks are catastrophic.

A Department of Infrastructure report in 2016 noted that: “Heavy trucks are disproportionately involved in casualty crashes: approximately 16 per cent of road crash fatalities and 4 per cent of injuries involve these vehicles.” ABS data shows that trucks represent just 3.6% of registered motor vehicles.

In the five years to June 2019, 919 people died in truck crashes, according to the Bureau of Infrastructure, Transport and Regional Economics. Safe Work Australia shows that out of the 111 people killed at work so far this year, 37 were transport workers, by far the highest for any profession.

Trucking is Australia’s deadliest industry, but it is also one of the unhealthiest jobs. A series of studies by Monash University has shown that long hours sitting down, stress, hazards around yards, bad food at truck stops and long periods spent alone

away from family are taking their toll on the nation's truck drivers. Diabetes, chronic back pain, mental health problems, heart trouble, sleep apnoea are high among drivers.

A study by Deakin University showed 323 truck drivers committed suicide between 2001 and 2010. An analysis by the Victorian coroner's court showing truck drivers had the highest number of suicides out of any other profession, with 53 drivers taking their own lives between 2008 to 2014.

Given that one in every thirty-three male workers - or 200,000 people - in Australia drive trucks for a living, it is a serious problem when health and wellbeing risks are as great as they are.

Aviation

There is currently a race to the bottom taking place at airports around Australia, where work is often contracted out to the lowest bidder.

Airports and airlines at the top refuse to take responsibility for what happens in their supply chains and do not hold to account the companies they contract work to over labour standards.

While revenues and profits continue to rise significantly for both airports and airlines, few jobs are full-time. Many workers are brought in for as few as three-hour shifts and are guaranteed no more than 60 hours a month. It has been revealed publicly that airport workers on low rates sleep at work between gruelling split shifts.

Safety and security at the airports are being impacted as a result of the working conditions. Staff turnover rates at the airport are high, resulting in a lack of experienced, trained workers and a high number of people are accessing secure areas without full security clearance.

Injuries are high among workers at airports – in Sydney among a staff of 326 workers there were 124 injuries reported in a year.

Gig economy

A new dimension to transport work has opened up with the march of companies like Uber, Deliveroo, Menulog, Foodora and others. These app-based food and passenger delivery companies are trying to distance themselves from the transport work they carry out by saying they are technology platforms. They insist that the food delivery riders and rideshare drivers who work for them are “partners”, not workers, who merely use their app to do their work.

By taking this arms-length approach they now engage thousands of people across Australia to do work without any minimum standards on wages and conditions. For these workers there is no superannuation, sick leave, annual leave, right to challenge an unfair sacking and workers’ compensations when provided is entirely inadequate.

Exploitation and abuse are rife in the industry with many workers having to log on to apps for hours to get work with very little return and no guaranteed wages.

A TWU survey of food delivery riders in Australia shows three out of every four are paid below minimum rates. Almost 50% of riders had either been injured on the job or knew someone who had. Three UberEats riders have been killed while working.

A survey of over 1,100 rideshare drivers last October showed the average pay is just \$16 per hour before fuel, insurance and other costs are taken out. One in 10 drivers has been physically assaulted while 6% have been sexually assaulted.

Safety in transport: some case studies

Buses

Buses drivers are faced with unique safety issues. Like other transport workers there are deadline pressures and pay issues which create major risks to safety in their jobs. Bus drivers however have the added risk of being targeted with violence and abuse while doing their work.

In October 2016, Brisbane bus driver Manmeet Alisher (29) was killed after a passenger lit a backpack containing a bottle filled with petrol and diesel and threw it at him. It caused an explosion and trapped 14 passengers inside the bus, who had to be rescued by passers-by.

Violence and abuse have almost become part of the job. A survey by the Queensland branch of the TWU found that:

- 81.2% of drivers have been threatened with physical harm, 54.1% reporting that this happens regularly
- 21.2% have been physically attacked at the wheel
- 71.8% have had objects thrown at their bus such as rocks, bottles, metal poles
- 27% have been spat on

Given the serious threat to their lives and the lives of the public, bus drivers have been forced to stop work and refuse to drive in certain areas when major problems arise.

In Western Sydney there have been several spates over the years of rock throwing at buses. Drivers have conducted work stoppage meetings when these serious safety issues arise. The effect of these meetings is to ensure that as many drivers, including those not attending the meetings because of driving schedules, are made aware of the safety incidents and resulting action. It is important that when a ban is

being placed on driving on certain streets and in certain areas, that all drivers are aware of it.

Drivers will often hold meetings with the local community to inform them of the necessity of banning buses in their areas. Often the local community is understanding of the problem and endeavours to try to address the issue with local supporting agencies.

If such work stoppages and work bans incidents were to occur while the proposed amendment was in place, the actions of these bus drivers could result in serious consequences for union officials and the union in general. This would have grave implications for the safety of bus drivers and the travelling public. Bus drivers must be allowed to take action to flag serious threats to their safety, given the evidence that assaults and violence are a common occurrence.

Cash deliveries

Another highly dangerous transport sector is the cash-in-transit industry. There are an average of 8 cash-in-transit robberies or attempted robberies around Australia each year, with 80% occurring when vehicles have pulled over to restock ATM machines or commercial premises. Some years have seen major spikes in robberies: in 2007 there were 18 incidents and 11 incidents in 2008.

The robberies are highly distressing for the workers involved and their families as they have led to death and serious injury.

Workers went on strike in August 1995 following a spate of armed robberies of delivery vans. In July 1995 there were several armed robberies of delivery vans in Sydney. At Miranda shopping centre in Sydney's south, guard Robert Jones was shot dead during a robbery. At Warringah Mall in Sydney's north, delivery guard Walid Abdallah was wounded by shotgun pellets.

The shootings and pressure by workers for action led to an inquiry by Justice

Russell Peterson of the Industrial Relations Commission of NSW, who made recommendations regarding training and safety procedures, including requiring that guards wear body armour.

An increase of robberies was seen again in the 2000s, some involving shootings and many taking place at busy shopping centres. In 2010, delivery guard Gary Allibon was shot dead during a robbery at an ATM on Sussex Street in Sydney.

Work stoppage meetings took place following these incidents to flag safety concerns and to allow workers, employers and police to co-ordinate responses.

Most recently, work stoppages occurred last year following a robbery which took place outside a shopping centre in Clemton Park, Sydney, as two guards were making an ATM cash delivery. The robbery occurred mid-morning while the shopping centre was busy. Both delivery guards were made to lie on the ground while a rifle was pointed at their heads.

The experience of armed robberies of cash delivery vans indicates the importance of allowing workers on the frontline the ability to challenge situations where their lives and safety and the lives and safety of the public are put at risk.

Aldi

Aldi began an unprecedented Federal Court case in 2017 against the TWU after it failed to get an injunction stopping the union from speaking out and protesting about truck driver rates and safety in its supply chain.

In his judgment refusing the injunction, Mr Justice Perram noted the reasons Aldi put forward to stop the protests were flawed. He said the TWU was engaging in “a degree of old-fashioned industrial activity” and noted “the proposition that the views which the TWU are pursuing are bona fide views”.

These views go to the heart of the problem in trucking as described above. Aldi as a major retailer at the top of the supply chain is refusing to acknowledge the effects that its contracts have throughout the transport supply chain. It has refused to discuss ways with the TWU to make its supply chain safer, prompting the union to raise public awareness about the issue.

Some operators in Aldi's supply chain do not pay their drivers correctly, do not train them adequately and do not maintain their trucking fleets. Drivers have reported serious issues to the TWU, including ignoring and even ridiculing drivers who report that they are fatigued, pushing them to work long hours. Aldi has also refused to address safety issues at some of its distribution centres, such as a lack of truck weighing systems (to ensure trucks are not overloaded), inadequate lighting in yards and drivers being forced to operate around faulty and broken equipment.

Following the failed bid for an injunction, Aldi has been pursuing the TWU in a Federal Court case for over two years. The case is the first time ever in Australia that a company has sued a trade union in a court hearing over "misleading and deceptive conduct". Aldi is also suing the union over "injurious falsehood", and trespass and nuisance.

Should the retailer win it could mean that civil society groups in future are severely curtailed in raising issues to do with human rights, environmental and worker abuses.

The case shows how eager some wealthy companies are to attack workers and unions, using whatever legal means to silence them and shut them down. Despite a failed attempt at the injunction Aldi is determined to pursue its case against the TWU. For two years it has wasted the union's money and resources on a case that we believe is doomed to fail. Aldi, with estimated global revenues of \$85 billion, has deep pockets, while the union's financial resources are limited.

Conclusion

In an industry marked by high instances of death, injury, wage theft, non-payment of superannuation, low pay and lack of minimum standards, transport workers need greater methods of combating the problems they face. They need legislation to back them up when their safety and the safety of the public is at risk. They need laws to ensure that safety is a number one priority.

What would potentially create more risks to safety and award compliance in this industry is a measure which would make it more difficult for workers to take action and that gives companies the right to make profits at the expense of safety.

The Aldi case demonstrates that companies are already willing to take lengthy and costly cases to test laws in order to silence workers and trade unions, despite eminent legal opinion that there is no right to do this. But Aldi is learning that taking this course of action is difficult.

The proposed measure however will make shutting down what is an essential voice in our democracy easier and by anyone who considers themselves an “interested party”. It will have a catastrophic impact throughout the transport industry, the effects of which would be felt throughout the community.