

# Road Transport Regulation: Innovation outside the direct employment relationship

Michael H. Belzer & David Peetz

## Key points and implications

- The road transport industry is characterised by extensive contract networks, featuring hierarchical contractual chains with drivers at the bottom, often without employee status, but with the financial responsibility associated with ownership of large trucks.
- **The industry features:**
  - long working hours
  - low incomes
  - high debt
  - insolvencies
  - a poor safety record
- **Drivers experience:**
  - stress
  - time pressures
  - loneliness
  - depression
  - musculo-skeletal disorders
  - fatigue
  - obesity
  - diabetes
  - cardiovascular issues
  - the threat of injury or death.
- The underlying trend is for the share of truck driving undertaken by owner-drivers and contractors to increase — in stark contrast to trends in other Australian industries.
- The road freight transport industry is among the least profitable in the economy.
- While the employed component in the sector is often regulated, the contractor segment, near the bottom of the contractual chain, is mostly unregulated, except in NSW. There, legislation has survived several changes of government, leading to a substantial long-term reduction in road deaths and saving more than 200 lives.
- International examples of attempts to regulate outside the employment relationship in this industry show both similarities and differences with the approaches taken to handle the problem of road freight transport in Australia and each other. Overall, the international experiences point to several lessons, including the desirability of:
  - enabling bargaining or regulation outside the employment relationship
  - taking account of the need for drivers to earn a reasonable income
  - encouraging equivalent minimum standards between business models
  - having the capacity to regulate the contractual chain as a whole
  - giving legal force to agreements between unions and contractual chain participants
  - entrenching a high level of consultation
  - enabling indirect regulation of factors that may be influenced by freight owners
- It is important for safety and economic efficiency to explicitly pay truck drivers for their non-driving service to the employer. Theoretical and empirical economic research shows:
  - narrowly defined incentives can have unintended consequences
  - higher wages are associated with greater productivity, and vice versa
  - higher wages and payment for all working time reduces wastage of workers' time through commuting, loading, unloading, queuing, waiting for work assignment, mechanical service and breakdown, and reduces 'shirking'
  - paying higher wages allows companies to acquire better workers for longer tenure
  - workers have a sense of fairness about their remuneration and they are likely to leave if they perceive their own wages are low relative to comparable peers

- when workers believe they are being compensated 'generously', or even 'fairly', this may induce extra effort to justify the perceived 'extra compensation' they are receiving, thereby affecting effort and productivity
- an unregulated labour market, without wage floors, can lead to the 'race to the bottom', with high quality labour leaving a labour market for better offers
- low road employment practices (such as high use of temporary staff) are negatively correlated with corporate performance, innovation and job satisfaction
- hourly labour productivity declines as working hours increase into higher ranges;
- morbidity increases as wages, job security and job quality fall; jobs with a higher level of physical labour and exertion
- lead to poor health
- performance-based pay schemes can lead to overexertion, excessive working hours, exhaustion and stress, and encourage behaviour that increases the probabilities of crashes, injuries, and fatalities especially where there are negative externalities and monopsony power, under- pricing of labour will lead to inefficiencies, lower welfare, and recruiting and retention problems perceived as 'labour shortages'.
- Studies specifically on road freight transport show links between economic incentives and safety and performance outcomes. Trucking companies on sound financial footing were significantly safer than firms operating on thin margins.
- Other studies in the industry found that intense competition and the externalization of safety costs create a 'race for the bottom' with a proliferation of precarious work arrangements, and likely lower productivity and lower profitability for all in the long run:
  - costs are borne by owner-drivers, freight transporters and other road users.
  - sustainable pay would attract better drivers, discourage longer work hours, and reduce economic pressure.
  - chains of responsibility would reduce deaths and burdens on the health system.
  - under-pricing of labour in road transport can lead to pollution, excessive carbon emissions, congestion, higher crash risks, and other externalities.
  - a higher-wage model would lead to a more sustainable, productive, efficient sector.

## Recommendations:

- The procedures outlined under **Part 16 of the Closing Loopholes Act No 2** should be activated, to equalise net incomes between employees and non-employees, minimise incentives for dangerous behaviour, and prevent the re-emergence of 'loopholes';
- Organisations representing contractor firms and individuals, employers, employees, owner-drivers, beneficial freight owners, government and other industry participants should continue the process embodied in the **industry roundtable in Parliament House in August 2022**, including through the making of further agreements;
- **Further research** should be undertaken into the areas where knowledge is presently inadequate, including through a comparative study assessing the impact of a known policy intervention (Chapter 6 regulation in NSW), and collection and analysis of cross-sectional and longitudinal data that document and link hours of work, remuneration method and level, trucking firm safety performance, trucking firm economic performance, and driver safety and health.