



MEDIA RELEASE

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Industry must back new safety umpire

The following column by Peter Anderson appeared in the November issue of Prime Mover magazine.

As the re-elected Turnbull Coalition Government gets down to business, the fall-out of its abolition of the Road Safety Remuneration Tribunal (RSRT), and a report from Small Business and Family Enterprise Ombudsman (ASBFEO) Kate Carnell, emphasises the urgent need for a fair and independent safety umpire.

The election stoush between the Government and the Opposition over the RSRT certainly created headlines and provided a further ideological distinction between the parties, with some voices within the industry weighing in louder than others, either for or against the Tribunal.

For our part, the Victorian Transport Association (VTA) remained largely neutral in the matter because we took the position that the politicising of the RSRT was becoming an unfortunate sideshow to the important work it was capable of doing, and still needs to be done.

While the VTA supported the intent of the RSRT, which was to set pay and conditions for drivers by making Orders for those covered by the system, approve road transport collective agreements and deal with disputes, there is no question that its second Order was deeply flawed, and a sorely missed opportunity.

It was deservedly shelved.

The same can also be said of the report delivered by Australian Small Business and Family Enterprise Ombudsman (ASBFEO) Kate Carnell, following her inquiry into the effects on small businesses from the RSRT's now defunct Contractor Driver Minimum Payments Order.

Her inquiry preceding the report was based on a limited number of submissions, with only a small number of "truck drivers" participating in the process. Some of the submissions contained untested assertions, and the report even conceded its findings were not based on any factual evidence of the financial effects of the payments order.

In November, 2013 the Federal Government commissioned Jaguar Consulting and in June, 2015 it also commissioned Price Waterhouse Coopers (PWC) to review the Road Safety Remuneration System. The outcomes of these reviews were not contemplated by the inquiry.

The suggestion in the report that "tribunals are not appropriate vehicles for developing complex industry-wide regulation that intervenes in market forces", ignores the 112-year history of award-making for employees by the Fair Work Commission (FWC) and its predecessors, including for employee road transport drivers.

The report also claimed that the RSRT payments order was discriminatory in only applying to "owner drivers and small family businesses", and not also applying to employee road transport drivers.



However, it ignores that minimum pay rates for employee road transport drivers are set by modern awards, with the rates in the RSRT payments order being set having regard to the minimum rates in those awards.

Its finding that the application clause of the RSRT payments order created uncertainty for “owner drivers” ignored that this was the same clause as that in the 2014 order, and the draft payments order for “owner drivers”, with a specific exclusion for such drivers in the cash-in-transit industry, the waste management industry, wharf and port container work or the oil, fuel and gas sectors.

Notwithstanding its flawed second Order the RSRT, when determining the payments order, was thorough in its proceedings over a three-year period.

It inspected workplaces, analysed the research of the relationship between remuneration and road safety, conducted independent research of the costs incurred by contractor drivers and appropriate minimum rates, drafted minimum payments orders to facilitate consultation with those affected, received evidence from contractor drivers and others in the road transport industry personally or by video conference and telephone calls, received oral and written submissions, and held conciliation conferences and hearings.

The VTA believes that much of the Tribunal’s work would have benefitted the road transport and logistics industry over the next decade, had it been allowed to continue.

It is critical for the industry that much this important continues, albeit under the auspices of another statutory authority in the National Heavy Vehicle Regulator (NHVR), which has been allocated federal funding for this vital task.

The NHVR, with the tremendous experience and intellect of its personnel, deserves the support of the industry as it takes over the work of the RSRT in setting safe working conditions. It most certainly has the support of the VTA.

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For further information please contact Brian O’Neil on 0411 055 284.