

Pacific National

Submission

Productivity Commission
Inquiry into National Workers
Compensation and
Occupational Health & Safety
Frameworks



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Introduction

Pacific National welcomes this opportunity to lodge formal submissions to the Inquiry. Pacific National also wishes to express appreciation for the additional time afforded in the preparation of this submission.

About Pacific National

Pacific National is Australia's largest private rail freight operator with annual operating revenue of more than \$1.1 billion. It offers a seamless national logistics service for containerised freight, coal industrial and agricultural products. Across Australia, Pacific National has approximately 2900 staff, 460 locomotives, 9,500 wagons and 80 sites. It operates in all mainland states and the Northern Territory.

Australian transport logistics companies, Toll Holdings and Patrick Corporation are joint owners of Pacific National. The two companies have substantial large-scale national logistics experience. Their vision is to develop the Australian rail freight industry so that it will continue to provide significant and ongoing benefits for customers and the broader Australian community.

During 2001, Lang Corporation (now Patrick Corporation) and Toll Holdings, formed the National Rail Consortium to bid for FreightCorp and National Rail. Following the completion of the successful acquisition in February 2002, National Rail Consortium changed its name to Pacific National Pty Ltd, reflecting its east coast base and scope of its national network.

Pacific National holds two Self-insurance licences, one under the Commonwealth, covering the former National Rail employees; and one with the State of NSW in addition to Victorian and South Australian workers compensation regime policies, covering the former FreightCorp employees.

Core positions

Pacific National's view expressed here incorporates the views of Toll Holdings and Patrick Corporation.

We are of the firm view that the threshold issue is one of choice. National businesses must have a choice to either:

- underpin efficient national operations with subscription to a single National scheme under efficient national regulations and standards or
- continue to operate local subsidiaries under specific industry schemes or geographic (State) schemes where these provide local efficiencies, or specialised services or provide structural flexibility.

A national scheme will require the development of:

- national codes of practise
- consistent compliance policies across the country
- A regulatory environment that releases corporations to increase their focus on high level occupational health & safety as an integral part of their business.

Pacific National supports and recommends:

- the nationally consistent road transport legislation process to achieve uniformity in safety and workers compensation.
- one universally accepted audit standard or protocol for self insurance
- submissions made by PACIA

These positions and recommendations are described in more detail below.

Key Issues

National Self-Insurance

"We are a national organisation that treats its employees not by jurisdictions but as members of one organisation with consistent organisation procedures and policies. State borders represent very little in terms of our business".

As a large national employer, Pacific National supports the idea of one employer licence to cover all its employees. At the very least, a National Framework should be established for employers similar to Pacific National with operations in all States and Territories. This framework should enable Pacific National to self-insure and at the same time comply with worker's compensation and OH&S requirements in all jurisdictions.

The flow on effect for national employers like Pacific National would be vastly simpler administrative processes, lower overall costs and more globally competitive products and services.

Pacific National takes the view that the example of the process followed to achieve **nationally consistent road transport legislation** could be followed.

Mutual recognition applied in workers compensation and occupational health and safety would allow an employer to satisfy acceptable national standards and to be approved in one jurisdiction. Mutual recognition would provide an automatic right to self-insure in each of the other jurisdictions in which it operates.

Mutual recognition can be achieved by TEMPLATE legislation or administrative arrangements between the jurisdictions.

For Pacific National, the current requirement to meet the regulations of two separate self-insurance licences and various jurisdictional policies, **more than doubles the financial and administrative burden** on the organisation.

In simple "economy of scale" terms, the benefits of a single scheme are obvious. With two schemes Pacific National must produce:

- **two** sets of actuarial reports,

- **two** sets of bank guarantees and
- **two** sets of reinsurance policies.

The introduction of insurance on a national basis could represent a **saving of 50-70% on recurrent financial costs alone.**

Self insurance 'contribution' fees are a further area of inconsistency. Each workers compensation jurisdiction requires an annual fee for obtaining and continuing self-insurance. The Commonwealth and NSW use diverse assessment methods to determine the fee that Pacific National pays in each jurisdiction. The results are very different despite the fact that Pacific National has almost the same number of employees in both jurisdictions.

There are also significant differences in the kind of service that the company receives from the two jurisdictions that do not align with the difference in cost. Both offer 'services' that do not assist the company in terms of self-insurance activities. Rather, they appear to be designed to meet the regulatory objectives of the regimes.

Given that both regulators should have similar objectives, it is difficult to understand the logic behind the calculation of fees. This disparity undermines the credibility of the regulators in other areas of activity.

The High Cost and Administrative Complexity of Compliance.

"The real problem is that the workers compensation regimes do not think nationally. This parochialism means that the important things they might say on safety are lost amidst the red tape. They are just not treated as seriously as they should be.

They also seem to be pre-occupied with process and are not interested in learning from our successes in prevention. Our general view, based on our international contacts and experience, is that our internal compensation and safety systems leave them well behind."

Pacific National joins most national employers in the view that dealing with numerous Compensation and Occupational Health & Safety regimes creates significant workloads and generates an unnecessary financial burden.

The existence of the statutory differences increases rather than reduces the various enforcement policies and practices followed by the various jurisdictions. This multiplier effect causes considerable direct cost through the need to align, reconcile, and check national initiatives back through each of the differences.

Quality can be easily compromised in the process of developing policy as well as in its implementation.

Misdirected effort compromises better quality prevention strategies. Rather than being proactive and developing better prevention and implementation strategies, internal safety management staff must spend time training and researching jurisdictional differences. The policies they develop must show consistency across the company but can end up as compromises or lowest common denominator approaches in their efforts to meet jurisdictional requirements. To avoid this outcome, special policies must be written for each jurisdiction.

While Pacific National expects a certain level of administrative complexity, it has to deal with the myriad different rules and regulation of no less than:

- **Seven** Occupational Health & Safety Acts,
- **Nine** Worker's Compensation Acts,
- **Six** Rail Safety Acts and
- **Six** Environmental Acts,

The result is that the excessive level of "regulatory detail" leaves little time for proactive thinking. Time is taken from the far more important responsibility of managing claims, bringing workers back to work and improving existing company procedures.

Regulatory compliance, while essential, is a painstaking and time consuming process. It requires a deep pool of professional expertise and consultant support to try to sort out the jurisdictional variations and to take account of the requirements of different regimes.

Additional time and energy is also required to "negotiate" with different regimes in order to get some consistency in the already existing arrangements.

Audits: Costs and Quality of Information

"We are getting audited out of existence! At the very minimum some consistency across the audit tools would be helpful."

Pacific National considers that audits are a valuable tool for both regulator and business if effort is taken to ensure the following:

- The forms are useful and add value to the business processes.
- The information that is extracted is valid.
- Any feedback is in a form of a powerful message that helps to improve safety.

Existing audit requirements do not meet these criteria. While the purpose of an audit should be to provide constructive and meaningful advice on existing problems and their remedies, in reality they absorb professional effort, time and cost for little outcome.

Multiple audit requirements create other sets of problems. Pacific National develops its own internal audit tools. Too many of the resources that are directed to this development are consumed by the need to meet the requirements of the various different audit procedures for different regulators.

Furthermore, the timing of audits by different regimes is not coordinated or rational.

To illustrate, the company has recently sub-contracted a consultant whose main task is to examine the requirements of just two separate legislatures. Training approaches are to be redeveloped to make them consistent with both sets of legislation, which in turn will satisfy audit requirements. Without the multiple jurisdictions the expense, including the time of professional staff in dealing with the consultant, may have been avoided or substantially reduced.

One universally accepted audit standard or protocol across the jurisdictions will in the immediate term:

- cut costs,
- release resources for safety and compensation initiatives, and
- reduce unnecessarily frustrating work.

Data, statistics and software costs – missing the injury trends

Pacific National is very concerned with the ongoing problems of data and statistical information in worker's compensation and OH&S areas. The perennial problems with comparability and reliability of injury data across and within industry are particularly exasperating. Differences in definitions, coverage and reporting methods obstruct the effective monitoring and evaluation of preventive strategies. Worse, they obstruct the identification of important trends.

The need for frequent software changes compounds the problem. These should be formalised and rationalised via a process of constructive consultation. To date, most changes to existing data collection protocols reflect a current or outdated information technology fashion, rather than the needs of the users.

Case Studies

Colour coordination-“THREE COLOURS ORANGE”

Pacific National reiterates its support for the concept of worker’s compensation and OH&S reform with emphasis on greater consistency and simplification of the existing systems. The following example, based on an experience of ours, illustrates the difficulty of overcoming the simplest of hurdles to standardisation.

“Once upon a time, most states in Australia used standard orange as the rail safety colour with the exception of Victoria which liked “Buttercup Yellow” and South Australia which preferred a “Burned Orange”.

As a result, our national rail company had reversible safety vests specially made for its drivers. Each time trains crossed state borders the train drivers took off and reversed their safety vests to accommodate this particular safety requirement.

It took four years of negotiation to get two states to change regulations specifying the colour of the safety vests that they required. Now “Orange” is all over Australia.

One of the states insisted on a two year transition period during which they accepted both the buttercup yellow as well as the orange colour”.



The Partners’ Views

Toll Holdings: Reporting

Toll Holdings has some 12,000 employees that are served by a specialist occupational health and safety risk management unit of some 27 staff. The Unit operates under the auspices of a high level management committee responsible for workers compensation claims and for safety improvement. The Unit reports directly to the Board. The data it produces is one component of the full set of management information that the Board considers in steering the fortunes of the company.

Best practice OH&S management suggests that this model of management is an effective means of cutting injuries and keeping claims costs low. More importantly, it recognises that OH&S is integral to improving overall performance. This approach and commitment impacts not just on company performance but has profound economic and social community consequences.

In the trucking industry this approach is crucial as for Australia the safety challenges are profound.

The Report of Inquiry into Safety in the Long Haul Trucking Industry (2001) notes the substantial *"economic externalities in relation to the industry which means that a significant component of economic burden of poor safety performance is being passed into the community"*. In addition to the official cost per person of a road crash fatality or injury (\$771,800 and \$131,800 respectively), the Inquiry also points out that the second order costs of repair, police, emergency staff and traffic disruption are yet to be quantified.¹

Apart from the considerable cost in terms of death and injury, a commissioned survey identified a number of additional indicators of safety and costs issues. Over half of truck drivers surveyed reported a chronic physical injury and a significant number scored high on measures of psychological stress. Abnormally high suicide rates, levels of occupational violence and stimulant drug use were also noted. The full cost of such physical and psychological damage on the families and the immediate social network of long haul drivers, provided additional cause for concern.

Toll Holdings management recognises that it has a special responsibility to understand and manage the occupational health and safety issues that arise from long-haul transport.

The company's commitment in the last two years has resulted in impressive improvements – almost a threefold reduction in injury and lost time.

Unfortunately this commitment is not matched by any of the regimes.

Toll's specialist Unit believes that more could be achieved if the inhibitions caused by the multiplicity of regimes were removed. The problems it experiences include: -

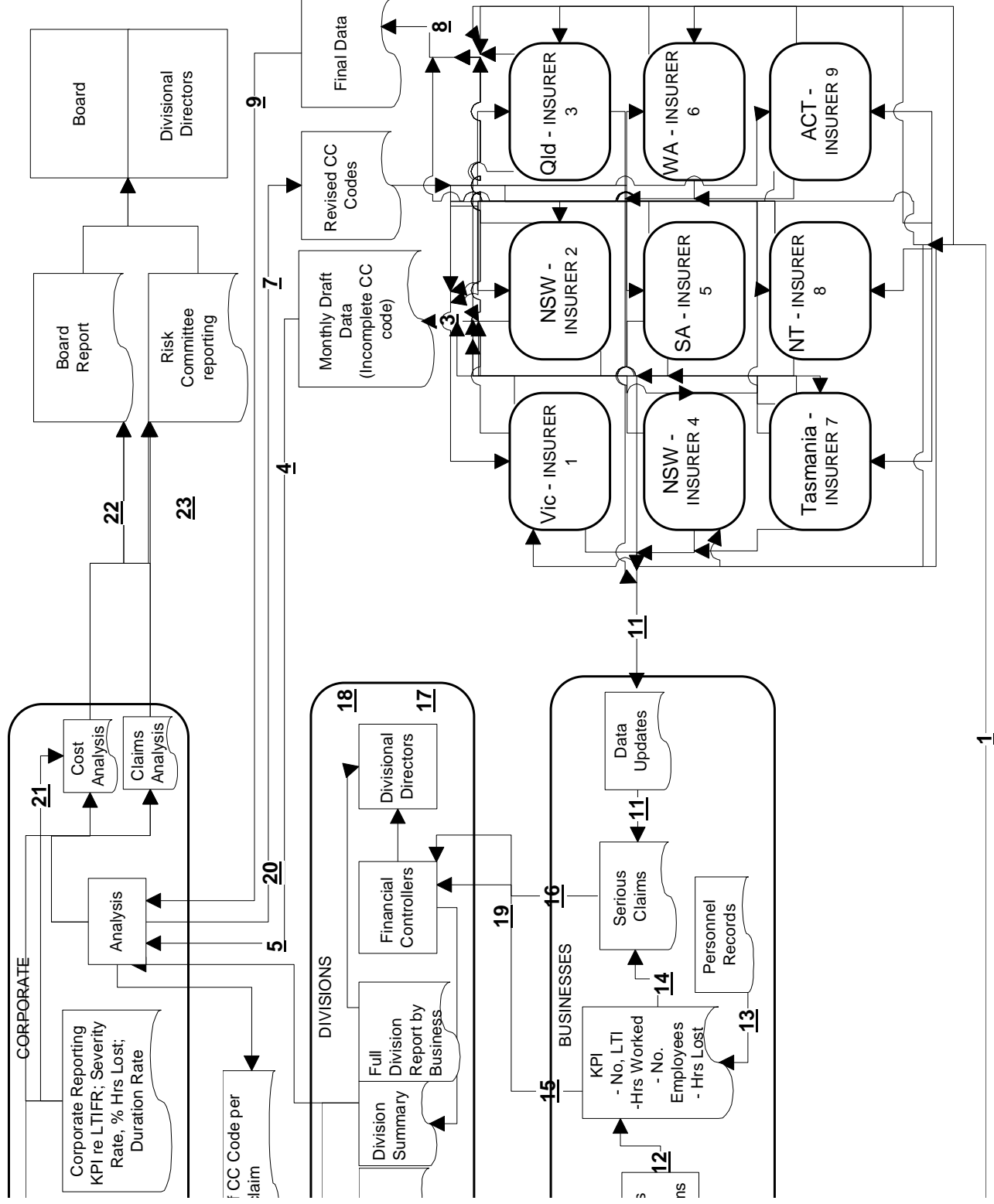
- difficulty in obtaining accurate data from disparate sources, and
- the intensive effort required to check data from 9 separate insurance and OH&S regimes.

¹ See generally *Report of Inquiry into Safety in the Long Haul Trucking Industry*, Professor Michael Quinlan, School of Industrial Relations and Organisational Behaviour, University of New South Wales, 2001

Overall this work accounts for some 20% of the Unit's resources, with unaccounted costs in missed opportunities for rationalisation and improvement.

Most of the safety standards that the company employs have an international scope. They are well beyond the requirements of any of the regulators. In effect some 10 regimes are kept up to date – the internal 'best practice' model and the 9 others. While seeking to operate at world best practice in order to be competitive it is forced to carry the regulatory burden of inconsistent and increasingly superfluous standards.

The chart on the next page shows the 23 processes that must be undertaken to provide Board reports. Each of the nine jurisdictions must be checked and rechecked at every level of management and at each step to ensure accuracy. For those companies committed to a best practice model this is an onerous and largely unnecessary burden. For those companies that have not made the commitment and do little more than follow the lowest common denominator, the resources required would be prohibitive.



Patrick Corporation (PACIA)

Patrick is Australia's

- largest operator of container terminals, with state-of-the-art facilities in all major ports, and it's
- largest stevedore, with origins dating back to 1919.

Patrick provides more related services and locations than any other company in Australia including:

- land-based services to shipping lines, freight forwarding agents, customs brokers, importers and exporters,
- movement of import and export consignments between the wharf, container parks and inland terminals,
- dedicated cargo services, one between Tasmania and Melbourne and the other between Fremantle and Darwin, calling into remote ports of Western Australia,
- an integrated service of processing, storage and distribution of motor vehicles with on-wharf processing facilities in Sydney, Melbourne, Fremantle, Brisbane and Adelaide,
- logistic and supply chain solutions including integrated transport, warehousing and distribution to a number of different market segments, and
- logistics support services to the Defence sector as well as commercial and government organisations with specialist project management requirements.

Patrick also operates internationally with a global freight network extending to over 200 cities and ports across the world and an international air cargo handling business.

Patrick Corporation is a member of the **Plastics and Chemicals Industry Association Inc** and endorses the submissions of that Association to the Inquiry. These include:

- A nationally consistent workers compensation scheme across all aspects particularly premium setting, benefits structures and insurance regulations.

- A nationally consistent OHS regulatory framework underpinned by practical guidance materials developed in conjunction with industry
- The need for regulatory frameworks and systems to be administered and interpreted in a nationally consistent manner.
- A regulatory approach which seeks to raise awareness, to inform and to educate where compliance and enforcement are a last resort not the first step
- A culture of Governments (State and federal), employees and employers working together with mutual responsibilities to ensure core principles are met.