

# **NATROAD LIMITED**

*the National Association of Road Freight Operators*

## **NATIONAL WORKERS' COMPENSATION AND OCCUPATIONAL HEALTH AND SAFETY FRAMEWORKS**

### **SUBMISSION IN RESPONSE TO THE PRODUCTIVITY COMMISSION'S INTERIM REPORT**

**JANUARY 2004**

## **Overview**

NatRoad (the National Association of Road Freight Operators) is appreciative of the opportunity to comment on the Productivity Commission's (the Commission) Interim Report on National Workers' Compensation and Occupational Health and Safety Frameworks.

After having reviewed the discussion paper, and having considered the issues raised in submissions by other employer associations, employers, Governments and the ACTU, NatRoad believes it is most relevant to address those issues contained in the report which have been raised with the Association secretariat most frequently by operators.

In brief, NatRoad believes that the practical approach put forward by the Commission through its recommendations towards national uniformity will lead to more effective OHS and workers' compensation outcomes, particularly for multi-state operators, who have experienced unnecessary costs and complexity for far too long.

Further, NatRoad agrees with the Department of Employment and Workplace Relations (DEWR) argument in its September 2003 submission, that there is a need for substantial improvement in the operation of Australia's workers' compensation and OHS arrangements, and that the current rate of progress is much too slow.

NatRoad is strongly supportive of the comprehensive and consultative approach taken by the Commission in its review, and looks forward to any involvement that the Association may have in further stages of the review process.

## **About NatRoad**

NatRoad is a national not-for-profit employer association that primarily represents long distance and regionally based trucking operators, members range from owner-drivers to large fleet operators.

The trucking industry has experienced a poor record of industry safety in past years, consequently NatRoad has taken a strong role in trying to help the industry to 'lift the bar' on safety. This has been achieved by providing OHS and workers' compensation advice, taking a strong advocacy role in industry safety forums, and by promoting the industry's accreditation scheme, TruckSafe.

Given the nature of the sector, a large proportion of operators conduct their business across jurisdictional borders and employ mobile workers. NatRoad's daily contact with businesses possessing these characteristics make NatRoad well placed to comment on the review of national OHS and workers' compensation.

## **National frameworks for occupational health and safety**

### ***Current situation***

Australia's fragmented approach to the regulation of occupational health and safety is well documented. Given that the responsibility for OHS lies mainly with the States, each state has sought to develop its own OHS regime, with insufficient effort put into the cooperative development of a national framework for OHS.

NatRoad concurs with DEWRs comment in its submission that "the existing OHS regulatory regimes across the states create uncertainty for business, particularly small business, in understanding their obligations and solving OHS problems in their workplaces"(p.5).

Operators contact NatRoad on a daily basis regarding interjurisdictional OHS issues, many of who express their frustration about the additional burden that having to be aware of so many different regimes creates. Despite their genuine desire to provide a safe workplace for their employees, many operators are simply overwhelmed by the unnecessary duplication that exists.

Further to difficulties with compliance, operators are offered varying levels of assistance and incentive depending upon their home jurisdiction. For example, NSW Workcover's Premium Discount Scheme and WorkSafe Victoria's Small Business Assistance Program are unfortunately unique in form to those States.

### ***National system***

NatRoad agrees with the Commission's statement that there are no compelling arguments against uniform OHS regimes (p.xx). NatRoad considers that the common objective among the different OHS statutes to prevent workplace injury and illness, and the adoption of the Robens approach by all jurisdictions (to varying degrees) leads to a conclusion of uniformity that should not be disputed on the basis of transitional difficulties. Further, NatRoad agrees that "Outcome-based regulations and codes can accommodate valid differences in jurisdictional circumstances in the same way as current schemes accommodate regional variation within individual jurisdictions." (p.xxvi)

NatRoad supports the recommendations of the Commission to develop both the cooperative template model and alternative national model regime described in pp.81-84. The cooperative template model will improve the rate of progress towards national uniformity through national leadership and the use of existing structures, while the establishment of the proposed alternative regime will create an evolving synergy for multi-state employers seeking to be covered under the proposed Commonwealth workers' compensation scheme. Multi-State employers will be able to operate with a reduced compliance burden under a simplified single system, promoting the adoption of a safety culture among smaller operators.

Ultimately, the States have had more than sufficient opportunity to work together and progress nationally consistent OHS. Though some progress has been made through forums such as the Heads of WorkCover Authorities (HWCA) and Workplace Relations Ministers Council (WRMC), the level of existing inconsistency is crippling

for many multi-state operators. Reform of the current structure is essential, and will not be achieved, as some State Governments may suggest, merely through ‘continuing towards’ the implementation of the National OHS Strategy.

In relation to the Commission’s recommendation that there should be a smaller NOHSC board, comprised of five to nine members, NatRoad believes that such an arrangement **MUST** include industry and union representation to be effective. Without industry and union representation, the people ultimately responsible for the implementation of and adherence to OHS systems, employers and employees, will not be sufficiently consulted at senior level national OHS development.

## **National frameworks for workers’ compensation**

### ***Current situation***

Similar to OHS arrangements, the development of vastly different workers’ compensation systems based on objectives that are essentially the same regardless of the jurisdiction, has produced confusion and increased cost for businesses operating across borders.

NatRoad recognises that there are valid differences resulting from the somewhat unique environments within which each system operates. However, NatRoad rejects that cross-border operators should have to deal with such a complex and faulty arrangement in which understanding one’s obligations to maintain full workers’ compensation coverage is so difficult.

NatRoad receives regular queries from operators who are confused about when they are required to take out workers’ compensation in different jurisdictions, and feedback about the inequity created by State by State coverage.

While State Governments have made progress towards enacting legislation and mutual recognition relating to cross-border arrangements, there are still significant gaps in coverage.

Adding to the difficulties of cross-border arrangements is the lack of understanding among the WorkCover Authorities themselves. In a recent attempt to clarify employer obligations, NatRoad contacted the NSW WorkCover, WorkCover Queensland, WorkSafe Victoria and the SA WorkCover Corporation. The information provided by each of the jurisdictions was fragmented and generalised, with referral to the ‘other’ jurisdiction to answer much of the coverage question. Such a simple example highlights the unnecessary burden placed upon employers to ‘figure it out’ themselves, because it is not in the interest of the State to do so.

NatRoad has also received feedback from operators who have moved their business interstate in order to gain access to lowered workers’ compensation costs. Different operators conducting the same business should not be subjected to vastly different workers’ compensation costs simply because they are based on separate sides of a border.

### ***National frameworks***

Given the difficulties for multi-state operators under the current workers' compensation schemes, NatRoad believes a more simplified structure for these businesses is desperately needed.

NatRoad does, however, agree with the Australian Plaintiff lawyers association (APLA) (submission, p.5-7) and the Interim report (p.108) that national uniformity should not be driven simply for convenience or its own sake, given that most employers operate within a single jurisdiction.

Accordingly, NatRoad is supportive of the Commission's recommendation to make available a single workers' compensation scheme, introduced in a graduated manner, and of the recommendation to establishment of a new national body for workers' compensation.