



Transport Workers' Union

**Submission to the Productivity Commission
Inquiry into Workplace Relations**

Submitted by email: workplace.relations@pc.gov.au

Tony Sheldon

National Secretary

Transport Workers' Union

Level 2, 388-390 Sussex Street

Sydney NSW 2000

About the Transport Workers Union

1. The Transport Workers' Union of Australia (TWU) has a 120-year history representing 90,000 employees and owner-operators in every State and Territory. Our members work across aviation, mining, oil and gas, road transportation, freight logistics, public transport and waste management.
2. A significant proportion of our members are the owners of small businesses such as lorry owner-drivers or the owners and operators of modest delivery and courier businesses, individuals who are almost uniquely susceptible to imbalance of bargaining power. We have a proud record of standing up to improve fairness and safety at work, and the workplace rights and entitlements of transport workers and their families.

This Review will reinforce inequality

3. The main focus of our submission is that this Review will make recommendations that will reinforce inequality in our communities.
4. Inequality is already gaining a foothold in Australia. Real wages fell last year for the first time in 17 years with wage increases slipping below inflation.¹ Corporate profits meanwhile are on the increase – obscenely so in the case of the major Australian banks, which posted billions of dollars in profits last year and look set to make similar profits this year.
5. The first Abbott budget was unfair through its proposed permanent changes to Medicare, university education, welfare benefits for young people and cuts to training and indigenous programmes. People on higher salaries meanwhile received a temporary 2 per cent tax increase.
6. Inequality also pervades our tax system. A report by the Tax Justice Network – an international group focused on investigating tax avoidance – and the United Voice union says almost a third of companies listed on the ASX 200 pay 10 per cent or less in corporate tax.²
7. Trade unions have been the backbone of achieving fair wages and conditions and removing inequality. But the movement is under attack. The Productivity Commission's review will undermine fundamental rights that make the difference between whether workers can live dignified lives with quality jobs or precarious existences at the whim of wealthy shareholders. The Royal Commission into Trade Union Governance and Corruption and the attack on

¹ <http://www.smh.com.au/federal-politics/political-news/real-wages-growth-worst-in-17-years-20140521-38p5j.html>

² <http://taxjustice.org.au/reports/>

the industry superannuation fund system are other manifestations of the attempt to “break” the unions.

8. Ahead of the Productivity Commission review the government is trying to pass legislation aimed at unravelling workplace rights, including:
 - *Fair Work Amendment (Bargaining Processes) Bill 2014;*
 - *Fair Work Amendment Bill 2014;*
 - *Fair Work (Registered Organisations) Amendment Bill 2014 and*
 - *Building and Construction Industry (Improving Productivity) Bill 2013*
9. Workers have achieved much in Australia – such as the eight-hour day, public holidays, penalty rates, annual leave and sick leave. To diminish these rights would erode the very fabric of our society.

The Global Picture

10. Many countries are looking at tackling inequality because it is hurting their economies. A paper supported by world leaders at the Global Economic Forum this year entitled “Benchmarking Inclusive Growth and Development”³ concludes that inequality undermines growth.
11. Christopher Pissarides, one of several Nobel prize-winning economist, at the World Economic Forum’s Annual Meeting 2015 in Davos said:

*“The main issue today is inequality. We have to find ways of raising the incomes of low-skilled workers. We have to find a way of creating jobs for people without university education and without the means to get into top-level jobs. We have to find ways of increasing pay in those jobs so as to reduce inequality; make all jobs in society respectable; and reduce this extreme inequality that we have today in the world.”*⁴
12. The Governor of the Bank of England, Mark Carney, said last year:

*“Inclusive capitalism is fundamentally about delivering a basic social contract comprised of relative equality of outcomes; equality of opportunity; and fairness across generations. Different societies will place different weights on these elements but few would omit any of them.”*⁵
13. Oxfam last year found that 85 rich individuals held more wealth than the poorest half of the world’s population – 3.5 billion people. Now 80 billionaires have the same amount of wealth as the bottom half of the planet.⁶

³ http://www3.weforum.org/docs/WEF_Inclusive_Growth_Development.pdf

⁴ https://agenda.weforum.org/2015/02/video-christopher-pissarides-on-income-inequality/?utm_content=buffer408ed&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer

⁵ <http://www.bankofengland.co.uk/publications/Documents/speeches/2014/speech731.pdf>

⁶ http://www.oxfamamerica.org/static/media/files/Wealth_Having_it_all_and_wanting_more.pdf

14. Lower-income households devote a greater proportion⁷ of their total income to consumer spending, which fuels economic growth – therefore when the incomes of the lowest wage earners are less than inflation, spending contracts and recessions result. Simply put, you get more economic benefit for increasing wages at the bottom than you do at the top.⁸

Inclusive Prosperity a Model for the Australian Economy

15. In many countries minimum wages have lost their real value. The increase in part-time work across developed countries is associated with salaries that are often less than the living wage.
16. Infrastructure investments provide strong jobs and productive assets that serve as the foundation for long-term economic competitiveness, increased prosperity, and improve our quality of life. The Australian government bond market is at record lows and we could be borrowing \$100 billion without impacting our AAA rating to build high-speed rail, urban transport and renewable energy facilities. All of which could help transition our economy beyond the mining boom.
17. Innovation and technology is ever evolving and raising skills levels is critical to increasing growth. There is also strong evidence linking innovation and wages.⁹ The transport and logistics sector is characterised by constant improving technology, which make it more productive and efficient. Yet transport workers aren't the ones benefiting, it's those at the top of the supply-chain who benefit.
18. Focusing on early childhood education, increasing the quality of our schools as recommended by Gonski, eliminating financial barriers to higher education, and providing support for apprenticeship programs are all critical to driving higher skill levels across economies in both tradable and non-tradable sectors.¹⁰
19. The Australian Government spent \$41.4 billion in acquiring goods and services through tender processes in 2011-12, \$18.6 billion of which was for non-defence related goods and services. The Commonwealth government should be committed to maximising retention and creation of jobs in Australia as well as supporting the growth of Australian businesses and should seek to utilise its procurement practices to that end. A Senate Inquiry report into

⁷ <http://www.rba.gov.au/publications/bulletin/2014/mar/2.html>

⁸ <http://www.theguardian.com/commentisfree/2015/jan/27/the-only-certainty-of-a-reduced-minimum-wage-is-a-lot-more-poor-people>

⁹ Giulia Faggio, Kjell Salvanes and John Van Reenen (2007) 'The Evolution of Inequality in Productivity and Wages: Panel Data Evidence', CEP Discussion Paper No. 821.

¹⁰ <http://tinyurl.com/l2mkr15>

Commonwealth Procurement¹¹ found that Australian Governments should consider the social and economic benefits, including the multiplier effects, of locally sourced procurement.

Our members – how they will suffer from this Review

20. TWU members are living with the reality of our increasingly unequal society. From truck drivers being squeezed in supply-chains driven solely by profit to aviation workers forced into part time, casual jobs, we see first hand the effect of the erosion of workers' conditions. This Review will further enhance this erosion in a number of ways:

Supply-chain challenges: how drivers get squeezed

21. The TWU's 'safe rates' campaign is an example of the need for continued trade union agitation. This campaign aims at making roads safer for truck driver and all road users.
22. The power dynamics of the retail industry mean trucks drivers are caught in the middle. The two major retailers – Coles and Woolworths – control almost a third of the road transport industry. Retail is the most influential sector within the road transport industry. Together, retailers and wholesalers account for 32 per cent of the road transport market.¹²
23. Major retailers are the most powerful principal employer within the industry. Lindsay Fox, Chairman of Linfox, stated earlier this year that the major retailers, most significantly in the supermarket subsector, were 'dictating' terms throughout the retail supply chain and using their market power to demand cheaper prices.¹³
24. In this dynamic drivers are under pressure to meet unrealistic deadlines by the major retailers like Coles. They are paid low rates and are forced to drive for longer and faster than is allowed to keep food on their families' tables. Drivers often do not get paid for all the work they do: loading, unloading and waiting to unload is not always covered. This is modern-day wage theft and its end result is tragedy on our roads. Numerous coroners' inquests have highlighted driver fatigue, stress and pressure in fatal crashes¹⁴. This is a classic supply chain squeeze where wealthy retailers cut costs to make more money regardless of its effects on the community. Road users are the ones who pay – with their lives.

¹¹ <http://tinyurl.com/mftnwaj>

¹² IBISWorld Industry Report I6110, 'Road Freight Transport in Australia', April 2012.

¹³ Kitney, D, 'Fox lashes out at Woolies and Coles for dictating terms', The Australian, 8 February 2012.

¹⁴ <http://www.courts.sa.gov.au/CoronersFindings/Pages/Findings-for-2015.aspx>

25. The 2012 Safe Rates Survey found that:
- 46% of drivers in the Coles supply chain feel pressure to skip breaks,
 - 28% feel pressured to speed
 - 26% feel pressured to carry overweight loads
26. Many of these transport companies also operate on small margins and sacrifice or delay essential maintenance to meet the economic squeeze placed on them by Coles. If drivers miss their 90 minute allocated delivery window, they are either forced to wait for hours on end for an opening or are sent back to where they came from with no financial compensation for the extra hours spent driving. This along with unpaid waiting times amounts to wage theft for workers.
27. Our road transport members cannot afford to see a return to draconian workplace laws. Driving a truck is 15 times more dangerous than any other job in Australia¹⁵ and every year 330 people die in truck crashes on Australian roads every year. If this Review makes any recommendation that gives more powers to the principal employers over transport companies, sub-contractors and their employees they will be guilty of add further pressures on drivers trying to make a living wage. The effects will almost certainly be deadly.

Case study 1: Frank Black, owner-driver and Australian Trucking Association owner-driver Representative

“Truck drivers spending time spent loading and unloading is irrelevant to many companies. You get paid to make a delivery no matter if it takes two hours or 10 hours. There is no compensation if a job takes longer to do. I have found this to be the case mainly when I was involved in anything to do with the retail sector, for example delivering to Coles, Woolworths and IGA. I was recently told by an owner-driver that 12 months ago while doing a load for Toll to one of Coles’ distribution centres, he was held there for in excess of five hours – all unpaid. When he complained about the situation, he was barred from the site.”

Case study 2: Trevor Brown, NSW long distance driver with over 30 years experience

“When I worked for Roadtrack I was always tired because of the long hours I was working. I was always thinking about where I could pull up for a little while to catch up on a little sleep. I found that I was always irritable and had no quality time for family. It is frustrating because I would rather spend time with my family than waiting unpaid for my truck to be unloaded. My constant tiredness and irritability because of such long hours caused a great deal of stress on my family. Driving is something I have done for many years and which I do well. It is difficult and dangerous work but I have to keep doing it to provide for my family. I also believe that as a 56 year old, it would be difficult to find other work.”

¹⁵ <http://www.safeworkaustralia.gov.au/sites/swa/about/publications/pages/work-related-traumatic-injury-fatalities-australia-2013>

Collective Bargaining: why it is important

28. Collective bargaining is a powerful way for workers to agitate together for fair wages and conditions. Any attempt to undermine this to serve so-called “flexibility” or “productivity” would leave some workers earning less, entitled to fewer rights and denied a voice.
29. The current system requires workers to take arduous legal routes to take protected action. The same restrictions do not apply to employers and this was demonstrated starkly in 2011 when Qantas grounded its entire fleet. The decision was taken unilaterally with workers, passengers, the economy and Australia’s international reputation suffering as a result.
30. Various aspects of the *Fair Work Act* 2009 already limit the right to freedom of association and should be reconsidered. It restricts the right to strike, the duration of industrial action and union access to workplaces. The negative right it provides is inconsistent with the concept of freedom of association and breaches our international labour law obligations. It should be changed in order to allow workers the right to engage in protected industrial action outside of bargaining periods.
31. Pattern bargaining by unions is not allowed, however, pattern bargaining by employers is. At Qantas, we are currently seeing numerous unions and numerous Qantas group companies in negotiations on enterprise bargaining agreements. Qantas have made a claim on all employees in all Qantas Group Companies for an 18-month wage freeze with no change to existing conditions. This would not be allowed of worker organisations. More importantly the inability to pattern bargain within an industry leads to inequity in payment for workers performing particular roles. This is being seen most starkly in the aviation industry.
32. Qantas half-year results earlier this year showed an underlying profit before tax of \$367 million – a figure that could not have been achieved without the dedication and sacrifice of its employees. Instead many have been forced into part-time work. Our members have full time bills, which can’t be paid for with part time wages.

Case study: Gerry Herron, permanent part-time baggage handler at Qantas Ground Services, Sydney

“We’re all permanent part-time. I only get 25 hours a week and occasionally I work overtime. If I didn’t get penalty rates at Qantas I wouldn’t be able to work there. My wife and I regularly discuss family pressures due to a lack of money. I’m the principle breadwinner in the household with three dependents. It’s tough with the ever-rising

cost of living to make ends meet. If the government tried to remove penalty rates I think you'll have anarchy in the streets of Sydney. People will just no longer be able to cover themselves."

Case study: Dave Beaching, owner-driver of truck with 18 years experience, South Australia

"I have a friend who told me how he was driving around and that every second load buckle on his load restraint curtain on his truck was missing. This is a real safety issue, which could cause serious injury or even death. He told me he'd complained to the boss but if he kicked up too much he'd get less work. So he decided it was better to shut up. That to me highlights the problem of not having secure positions in our industry. In the 1980s-90s I was doing 50 odd hours a week but today to make the same I'd have to work close to double the hours. I have a daughter who can only get part-time work as a librarian. If they cut her penalty rates I'd have to help her out."

Precarious Employment: the reality of insecure work

33. The government has said the Review into workplace laws is about "contributing to productive, rewarding, competitive and harmonious workplaces". But for many workers in Australia a new wave of part-time and casual work is leading to chronic underemployment, which is having profound effects on household finances, spending, happiness and general wellbeing.¹⁶ The Australian Bureau of Statistics estimates that the rate of underemployment – mostly, people wanting full-time work, but forced to take part-time jobs – has shot up to a record 8.5 per cent of the workforce.¹⁷
34. In the transport and logistics sector full-time employee numbers grew by 33 per cent between 1994 and 2007, but those with no holiday entitlement increased by 70 per cent and the number of part-time workers grew by 122 per cent in the industry over the same period.¹⁸
35. One aviation company QGS – Qantas Ground Services – in an enterprise bargaining agreement ballot was shown to have 1290 employees, of which 1175 were listed as part time. Another firm Aerocare declared 1014 employees for a ballot, 382 of which were part time and 604 of which were casual.
36. In 2011 (when census data was last collected) approximately 21 per cent of aviation workers earned less than the national poverty line (measured at \$863 per week, \$908 in 2012, and \$947 in 2013, which are based on the income

¹⁶ <http://www.theguardian.com/commentisfree/2014/sep/17/the-hidden-underclass-how-australian-underemployment-is-concealed>

¹⁷ <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6265.0>

¹⁸ ABS (2010) Australian Labour Market Statistics – transport and storage industry

required for one worker to support a partner and two children,)¹⁹ and 34 per cent earned below the 2011 national average of \$1,024²⁰ (the national average income in 2012 was \$1,053, and \$1,105 in 2013).²¹

37. Traditional direct employed full-time airline workers are being made redundant and replaced with part-time workers. “Additional hours” have emerged as a way to minimise paying overtime. The 38-hour week is disappearing to be replaced more commonly with a 20 hour guarantee. New companies guarantee as little as 15 hours per week, some as many as 25 hours. The following compares the part-time wage guarantees by the major aviation companies compared with the National Minimum Wage (\$640.90 per week):

• Toll dNata	25 hrs	\$875.25*
• Virgin	25 hrs	\$591.02
• QGS	20 hrs	\$509.63
• Menzies	20 hrs	\$467.20
• EGH/Jetstar	20 hrs	\$443.08**
• Aerocare	15 hrs	\$412.95

*Hourly rate is all up and includes all allowances

**Employees commencing after 2010 agreement are on lower rates

38. Part-time workers are often not given set part-time hours and the constant changes to working hours mean their incomes are insufficient to provide for their families. Changes to working rosters for part-time workers means getting another job to supplement their income is impossible.

39. Workers in precarious jobs are less inclined to be unionised and are therefore more exposed to employer pressures. This undermines the development of skills and limits workers opportunities for career advancement.

40. While unemployment has risen to 6.4 per cent, youth unemployment is over 20 per cent in some parts; these problems are only exacerbated by an immigration policy that doesn’t fit our current economic conditions.

41. Net migration has remained expansive meaning that each year Australia is adding between 200,000 and 250,000 more migrants than it is losing. This is fine if the economy is growing at trend levels but at present not enough jobs are being created to employ young and old Australians alike. With over one million people currently on some form of temporary visa, Australia has already effectively outsourced 11 per cent of its workforce.²² This inevitably means

¹⁹ The Melbourne Institute, 2014, ‘Poverty Lines: Australia,’ Online, Available:

<http://melbourneinstitute.com/miaesr/publications/indicators/poverty-lines-australia.html>

²⁰ ABS, 2012, ‘6302.0 Average Weekly Earnings, Australia.’

²¹ ABS, 2013, ‘6302.0 Average Weekly Earnings, Australia.’; ABS, 2012, ‘6302.0 Average Weekly Earnings, Australia.’

²² <http://www.immi.gov.au/media/statistics/statistical-info/temp-entrants/index.htm> if you table 1 and take the following temporary visa holder: Student visa, 257 780; Working holiday, 178 980; 457 visa, 169 070; Other temporary, 29 010; 485 visa, 24 660; 444 visa, 625 370; and Total1 284 870. Total Australia workforce based on ABS Labour force: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6202.0> Latest figures are March 2014 - 11 553 200 in the workforce (seasonally adjusted). That gives you a figure of 11.12% on Australian workforce on temporary work visa.

fewer job opportunities for existing workers or for those trying to get their first job.

42. The high number of workers in Australia on temporary visas is also a cause for concern. These workers by definition are in a vulnerable position since they are tied to an employer and can be exploited if their language skills or knowledge of labour laws here are poor. The overall effect of this exploitation is to drive conditions down for all workers.

43. Australian workplaces and trade unions have witnessed considerable growth in positions that are employed casually, on rolling short-term contracts or engaged by labour hire companies. These employees are generally paid less than equivalent direct employees, are employed for (varying) fixed periods and have comparatively few, if any, leave entitlements. Since many of our aviation workers have been forced into part time casual employment they rely on penalty rates. Any changes to this system would have detrimental effects on already vulnerable workers.

Case study: Phil Awty, permanent part-time driver for Qantas Ground Services, Queensland

"I work around 30 hours a week but I can just about make ends meet because five of those hours are Saturday or Sunday which means I get penalty rates. It isn't rostered though so it's a bonus if I get it. My rostered hours are only 25 hours a week over six days a week. It's not a great situation when you have to work six days out of seven, five hours a day just to take home some money to live. If I had the same shifts each week I could go out and get a second job. But because its afternoons one day and morning the next you're effectively committed to Qantas 24/7. I'm the principle breadwinner and that's very very sad predicament to be in. It feels that Qantas is knowingly not supporting families. The travel benefits mean nothing to three-quarters of us because you have no ability to use them. I suspect our days are numbered and that the work I do will be sub-contracted. They're doing it across a range of QGS services. Many people who have already left QGS had been there for less than 12 months and they didn't have a job to go to. It's pretty extreme to want to leave with no job to go to. Everyone is talking about how we're going like America. I don't understand why we're trying to copy America. Over there it seems like people have three jobs on the go. We don't have to replicate that."

Case study: Bob Geary, former owner-driver Courier with 24 years experience, Adelaide

"Costs are always going up but income never went up in comparison, if it went up at all. The problem we faced was other companies undercutting each other. And at the end it's the owner-drivers that lose out. We have overseas drivers who come to Australia to get permanent residency are getting screwed by the company to work for less and less and less than what locals would. I heard they would work for 30% less than what we would. That's just wrong. It's taking money from everyone else. It's making them have a substandard living because they want to stay here."

I'd leave in the morning thinking about whether I was going to make enough money to pay the rent, to support my wife. When you're not making enough money to make ends meet you start to question yourself and you lose your self-esteem. I'd be out there and by lunchtime I might have two or three jobs done. I might have \$20 dollars in my pocket by lunchtime. I'd go home for lunch because you can't afford to buy it and be at home completely depressed. I'd get a \$5 dollar job and think to myself 'I can't keep going like this I need to make some money'. I used to clear \$1000 a week then by 2008-09 I'd be lucky to clear \$500 a week.

I get pissed off at people who knock the union. I say to those people 'what do you earn? Why do you get Christmas off? Why do we have penalty rates? Why do you get News Years day off? Why do you get Easter off? Do you think the boss just woke up one morning and decided to give it to you?'...It's the unions that got these conditions. Otherwise you'd be working 80 hours a week just like they did back in the 1930s in the coalmines."

Conclusion

44. If the main focus of this Review is about reforming workplaces to ensure they are productive and serve the economy as best they can then the following needs to be done:
- We need to strengthen the power of trade unions not weaken them by imposing limitations on the right to organise, collectively bargain, take industrial action and strengthen the safety net. The IMF found²³ that deunionisation is associated with less redistribution of income and that reductions in minimum wages increase overall inequality considerably. If Australia wants to increase its growth it needs strong unions to argue on behalf of those most at risk.
 - We need to ensure that Australia does not adopt an American model of workplace relations. We need to ensure against a model that sees people working two or three jobs just to survive or one where people have to fight to make more than \$US8 an hour.
 - We need to reduce the pay gap between men and women, currently at 18.2 per cent, the highest since data was collected in 1994.
 - We need to ensure our future generations have growing industries with growing job opportunities and not accept a situation where youth unemployment is over 20 per cent in areas like Cairns.
 - We need to ensure workers are well remunerated and that our system ensures the minimum wage continues to keep pace with inflation. Business can't grow if the vast bulk of people cannot buy their products or services. Cutting penalty rates and the minimum wage will only serve to take money out of people's pockets and out of the economy. This will result in economic growth continuing to grow well below trend.
 - We need to stop the erosion of quality permanent jobs. As shown above we represent tens of thousands of workers who have been forced into

²³ <http://www.imf.org/external/pubs/ft/fandd/2015/03/jaumotte.htm>

precarious work. This robs families of dignity and weakens community cohesion.

- We need to stop the supply chain squeeze. Retail companies are squeezing truck drivers to the point that safety is put at risk. Drivers need to be remunerated so they can provide for their families without putting their lives or others at risk.
- We need to stop the wage theft which alive and well in Australia today. Workers must get remunerated for the work they do. Truck drivers must be paid for all the work they do.
- We need to ensure workers have dignity at work but also in retirement. Cutting the rate of compulsory superannuation guarantee, while allowing the loophole for those with capital to benefit from the concessional treatment of superannuation is perverse and will consolidate inequality.
- We should be promoting inclusive growth policies that benefit Australians through improved access to innovation, education, skills and training and infrastructure.
- We need a government that has a vision for all Australians, not just the 1 per cent.



Authorised by TWU National Secretary, Tony Sheldon | twu@twu.com.au