

SECURE JOBS

The Flight of Decent Australian Jobs

SUBMISSION BY
TRANSPORT WORKERS UNION OF AUSTRALIA
NATIONAL OFFICE

January 2012

INTRODUCTION

The Transport Workers Union of Australia (TWU) represents over 90,000 workers across the country, principally in the road transport and aviation industries.

The TWU covers individuals who are either self-employed (mainly truck owner-drivers) or who are employed directly or contracted to private companies.

This submission focuses on major employers and employment practices in the aviation and transport sectors. It is anticipated that several TWU State Branches will separately tender submissions and evidence to the Secure Work Inquiry regarding these and other areas of operation, such as the waste industry.

The pattern of the main body of this submission is as follows:

- i. Sector (aviation or road transport) and general comment on the sector
- ii. Classifications (or employee positions) covered by the TWU
- iii. Major Sectoral Employers
- iv. Individual Sectoral Employers Financial Information
- v. Data and Trends in employment numbers and status (i.e. full-time and other)
- vi. Comment on data and trends

The aviation sector will be canvassed first, followed by road transport. Conclusions and recommendations about pathways to improved standing for staff without secure work will complete the submission.

Insecure Employment

Insecure employment is commonly defined as:

- Irregular and unpredictable working hours and locations
- Uncertainty over the length of a job
- Income insecurity due to variable pay patterns
- Low or no leave rights

Official statistics reveal that:

- 2.2 million workers are employed casually across Australia
- One million workers are contractors; 40% of these are dependent contractors who have no authority over their work
- 40% of labour hire employees work less than 35 hours a week; nearly half do not have steady work
- 1.2 million workers pay varies from week-to-week

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.

Contrary to industry peak group and employer comments, the majority of precariously employed individuals in these positions do not seek the kind of “flexible” work arrangements they find themselves in. Rather, they are increasingly frustrated with the unreliability of their positions and the relative absence of entitlements. They have come to form a class of disposable employees, whose rights to reliable and fair terms of engagement are ignored or frustrated.

Australian workers have long tolerated the supposition that the success or survival of the company they provide services to is primarily linked to operating expenses. These employees have often forfeited long-standing rights and curbed salary or related demands according to the prevailing economic conditions.

It is also the case that salary and conditions are being eroded in order to satisfy ongoing management demands for a flexible workforce. However, while we commonly witness restraint across general work classifications, levels of executive remuneration have soared, even as overall company performance has fallen. A snapshot of recent executive remuneration packages across companies the TWU seeks to engage with reveals:

- **Qantas CEO: Alan Joyce, 71% pay rise to \$5 million**
- **Toll CEO: Brian Kruger, 33% pay rise to \$2.1 million**
- **Coles Managing Director: Ian McLeod, 94% pay rise to \$15.6 million**
- **Woolworths CEO: Grant O'Brien, 23% pay rise to \$2 million**

The divide between employer and employee is growing wider and with it, the security of work that most Australian workers could once expect is being progressively dispensed with.

Impact of Insecure Work

There are several concerns arising from the shift away from secure work:

- Negative quality of life impacts increase: time spent with family is reduced and irregular
- workers eager to provide for their families are pressured to accept unsatisfactory terms
- employees are pitted against each other on a cost basis
- declining work quality and safety
- Downscaling of safety and occupational health training and outcomes
- Falling service standards

Overall, the TWU is witnessing the development of an atmosphere where employees are devalued and alienated rather than being a viable and productive part of an enterprise.

As a new class of disposable employee increases in number and proportion, several new tensions are manifesting themselves in the workplace: firstly, resentment can grow between permanent employees on more favourable terms and those who occupy positions in independent contracting entities; secondly, the connection between staff and contractor/company management becomes more remote - as in the case of outsourcing - and reasonable scrutiny of the terms under which an individual is employed become more complicated, if not impossible.

It follows that as the distance between the management of an organisation providing services and the staff performing services for that company increases, so too does the responsiveness and service quality of the organisation decline.

This remoteness may deliver attractive benefits to shareholders and senior executives, especially in remunerative terms, but at what cost? Certainly it would appear the longer-term costs include poor morale and a loss of affinity with the employing company.

While the "natural" laws of competition would remedy such a situation and compel the under-performing organisation to improve performance or face loss of market share, the increasingly concentrated nature of the aviation and transport sectors preclude such

corrections. Ultimately, the people who actually perform the practical tasks that generate company earnings are facing increasing threats to their job security.

In aviation, we see the rapid growth of external contractors and outsourced work at the expense of formerly directly employed staff. The union has also seen aggressive attempts to relocate staffing and significant safety-related tasks to overseas destinations.

In road transport, the Union has observed an ever-increasing chain of contracting out of relatively unprofitable work by major companies to small and medium-size companies that escape the purview of industrial regulation and who commonly ignore reasonable industry practice.

These trends invariably compromise the relevant employees' ability to budget for professional and living expenses and exposes them to a "take it or leave it" approach to work allocation and entitlements.

The decline of secure work ultimately fractures the necessary good faith required between employer and employees that ensures service quality and safety considerations are addressed.

The Australian community and others rightly value the safety and reliability of major organisations throughout the transport sector, where markets are growing year on year. It is hard to imagine a sector where reductions in safety and training standards should be more forcefully guarded against, yet lower standards in air travel and road safety are the cost of some of some of the practices canvassed in this submission.

Australian Bureau of Statistics Data

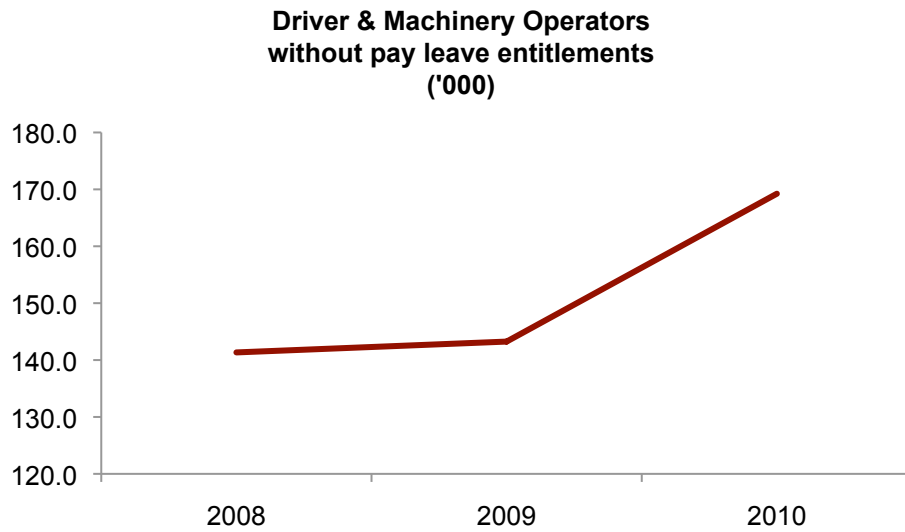
The most relevant data for employees covered by the TWU who do not receive leave entitlements is from the Australian Bureau of Statistics in the three *italicised* areas. This data is set out in the following tables and graphs.

(Table 1)	2008	2009	2010
Employees without paid leave entitlements	'000	'000	'000
<i>Driver & machinery operators</i>	141.3	143.2	169.2
<i>Labourers</i>	476.0	476.9	459.8
<i>Trades workers & technicians</i>	205.7	204.2	217.2
Managers	52.9	62.2	60.3
Professionals	201.4	222.8	215.5
Community and personal service workers	327.0	399.7	386.4
Clerical and administrative workers	236.9	232.6	238.9
Sales workers	449.7	436.0	498.2
Total	2091.0	2177.7	2245.5

Source: ABS, Australian Labour Market Statistics,
11 October 2011

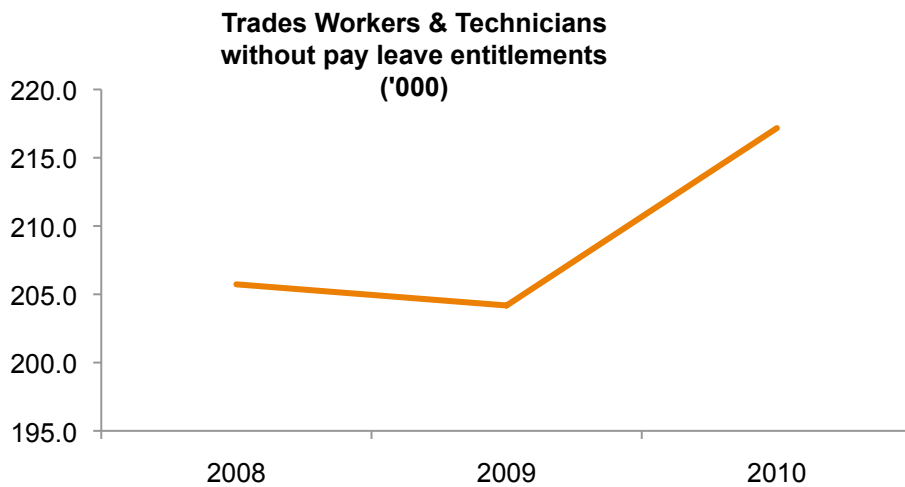
According to the latest data released by ABS (Australian Bureau of Statistics), in 2010 more than 2.2 million Australian employees were paid without paid holidays or sick leave entitlements, or defined as "casual employees". (Table 1) Of this 850,000 are workers who

may¹ occupy positions within the aviation and transport sectors.



(Figure 1)

There were 169,200 drivers and machinery operators working as casual employees in 2010 – up 20% since 2008. (Figure 1)



(Figure 2)

An upward trend was also recorded in the category of casual trades workers and technicians. (Figure 2)

The growth in workers without leave entitlements in the above graphs corresponds with the TWU's on-the-ground understanding of the nature of employment in its areas of coverage.

¹ This data is useful to identify a trend rather than justify an assertion that all 0.85 million of these workers are within these sectors. That is plainly not the case. More specific and relevant data to aviation and road transport are set out in following sections of this submission.

INSECURE EMPLOYMENT IN AVIATION SECTOR

Statement by Qantas Family Member - *Stephanie*

“My husband has been part time for over three years now. No full time employment, that’s shameful. We have three children and I am only able to work part time myself and studying for a Postgraduate diploma in Psychology and Counseling.

I am forced to do that because we are unable to survive on wages my husband brings home (around \$650 per week).

I am blessed that God has given me a good mind so I can complete studies and [improve] my employment prospects, what about those out there who are not so fortunate and their husbands are the main breadwinners? Those men working part time can barely afford to feed their families.

The economic difficulties are also impacting on their family structure, social interaction with their peers and not to mention that moral is at all time low at the Kingsford Smith International Airport. ”

Statement by Glen – TWU Official

The safety issues that the TWU [is] campaigning for include the casualisation of labour hire at the airport, including security guards working on visitor cards for extended periods without Federal or State Police checks. The TWU was also campaigning about the lack of procedures for screening bags for explosive devices or volatile materials potentially contained inside luggage or airfreight.

Who the TWU Represents in the Aviation Sector

Aviation Industry	PUD driver, small van driver, tarmac bus driver, mobile step operator, conveyor belts operator, disabled passenger lift operator, aerobridge operator, pushback, fork lift driver, heavy rigid driver, tow motor operator, terminal operator, air services agent, airline service co-ordinator, air movement operator, ground crew, baggage handler, freight/ cargo handler, load controller, general ramp hand, dock master, catering equipment handler, fuelling/ refuelling crew, cabin presentation crew, catering truck driver, radio base station operator, PA system operator, planner, building co-ordinator, technical officer, engineering instructor, equipment handler, specifications assembler, flight checker, materials handler, storeman, traffic information officer, customer service officer (guest contact centre agent), cabin cleaner, catering attendant/ leading hand, cook, chef/ demi-chef/ chef de partie, dishwasher, fridge checker
--------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Aviation Industry’s Economic Contribution

The annual gross value added by the aviation industry to the Australian economy is nearly \$6.3 billion. In August 2009, nearly 50,000 Australians were directly employed in the aviation industry, and nearly half a million indirectly through the tourism industry, accounting for 3.7% of the nation’s GDP.

Although airfreight represents less than one per cent of Australia's trade by volume, it makes up more than twenty per cent of trade by value. During 2008-09, over 680,000 tonnes of freight, worth over \$100 billion, was carried on international flights to and from Australia.²

The major aviation companies in Australia are Qantas/Jetstar and Virgin. Together these companies represent 95 per cent of the Australian domestic aviation market.

QANTAS / JETSTAR

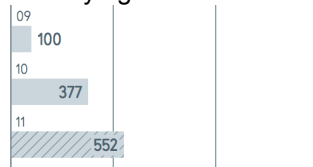
Qantas has dominated the Australian aviation market in the last ten years, with around 65% domestic market share from Qantas & Jetstar brands.

Key figures and results from 2010/11 include:

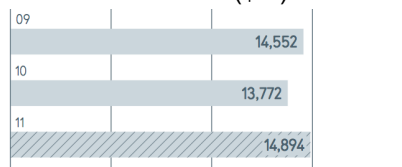
- Revenue \$14.9 billion, **up 8 %**
- Underlying Profit Before Tax: \$ 552 million, **up 46 %**
- Statutory profit after tax: \$249 million, **up 115 %**
- Operating cash flow: \$1.8 billion, **up 32 %**
- Capacity **up 7 %**
- Net passenger revenue **up 10 %**
- Net freight revenue **up 3 %**
- Ancillary passenger revenue **up 50 %**

Qantas Financial Information

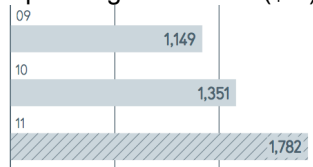
Underlying Profit Before Tax (\$m)



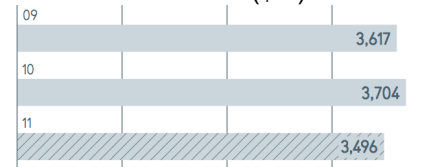
Revenue (\$m)



Operating Cash Flow (\$m)



Cash Held (\$m)



Source: Qantas Annual Report 2011

² National Aviation Policy White Paper: Flight Path to the Future, by Department of Infrastructure, Transport, Regional Development and Local Government, Published in December 2009

Qantas Share Value over 5 Years



Source: Bloomberg

Over the 5-year period, its share price has been dropped from the peak at \$5.28 to \$1.52 on 11 October 2011, which can be translated as a dramatic decrease of 71%.

Executive Remuneration

Senior Qantas executives are the most obvious beneficiaries of the Qantas Group's performance.

Qantas Chairman Leigh Clifford received a greater than 50 per cent board fee increase since 2008. Richard Goodmanson received a 38% board fee rise since 2009.

Apart from contracted annual remunerations, Qantas executives also enjoy payment packages with other short / long-term and benefits, including performance & share-based payments. Four Qantas executives carried away almost \$53 million in four years.³

4 executives, 4 years...

	2008	2009	2010	2011	Sub-total
Total Remuneration					
Leigh Clifford - Chairman	411947	612507	611000	635000	2270454
Alan Joyce - CEO	5099201	3664363	2924000	5008000	16695564
Geoff Dixon - Former CEO	12171606	10704326			22875932
Peter Gregg- Former CFO	6180374	4882915			11063289

these 4 executives were paid \$52,905,239 in 4 years

Current CEO Allan Joyce

Mr Joyce's fixed annual salary in 2011 is 384% higher than when he joined the Group in 2005, from \$532,273 to over \$2 million. Mr Joyce's current total remuneration is \$5 million (pre-vested) - 71% more than last year.

³ Qantas Annual Report 2008-2011

Former CEO Geoff Dixon

Mr Dixon was controversially rewarded \$12.2 million when he left the Group. In the same financial year in which the airline's profit was slashed by 88 per cent and 1750 jobs were axed.⁴

Squeezed Employees

Qantas paid \$14.4 million to eight executives in FY2011, a combined 62% pay rise. Instead of 40:1 ratio of CEO to worker salaries in Germany⁵, at Qantas the ratio is as high as 140:1.⁶

QANTAS TOP EXECUTIVES' REMUNERATION				
Name	Position	2010	2011	Increases
Alan Joyce	Chief Executive Officer	\$2,924,000.00	\$5,008,000.00	71%
Bruce Buchanan	CEO Jetstar	\$1,111,000.00	\$1,413,000.00	27%
Gareth Evans	Chief Financial Officer	\$109,000.00	\$1,357,000.00	1145%
Rob Gurney	Group Executive Qantas Commercial	\$1,015,000.00	\$1,405,000.00	38%
Simon Hickey	CEO Qantas Frequent Flyer	\$1,261,000.00	\$1,406,000.00	11%
Jay Hrdlicka	Group Executive Strategy & Technology	N/A	\$361,000.00	N/A
Lyell Strambi	Group Executive Qantas Operations	\$1,234,000.00	\$1,695,000.00	37%
Rob Kella	Qantas Chief Risk Officer	\$1,258,000.00	\$1,791,000.00	42%
Total Executives Remuneration:		8,912	14,436	62%

*Source: Qantas Annual Report 2011

QANTAS GROUND STAFF'S PAY			
Qantas Ground Crew employed by Qantas fully owned company QGS	Annual Wage** as 1 June 2010	Annual Wage as 1 June 2011	Increases
Ground Crew 4	\$46,119	\$47,042	2%
Ground Crew 3	\$38,961	\$39,740	2%
Ground Crew 2	\$37,441	\$38,189	2%
Ground Crew 1	\$36,300	\$37,026	2%
Trainee	\$35,097	\$35,799	2%
Annual Wage Increase for Qantas Ground Staff:			2%

*Source: Qantas Ground Services Pty Limited Ground Handling Agreement 2009

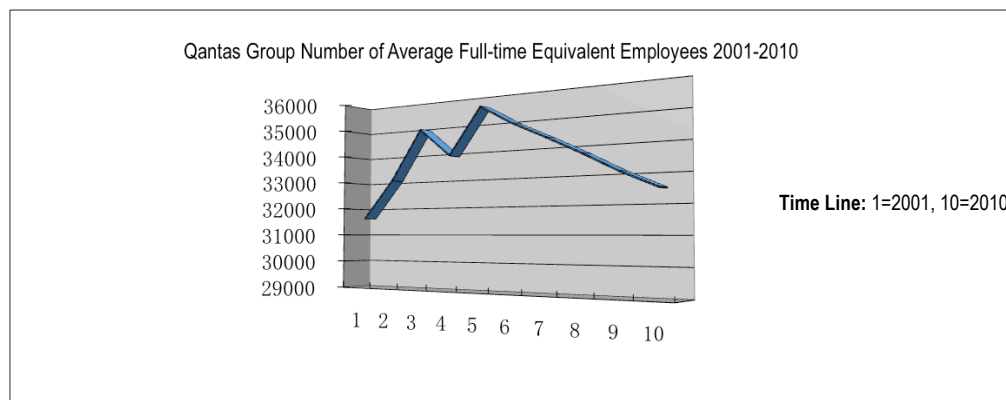
**Annual wages are based on weekly wages x 52

NUMBER OF FULL-TIME EQUIVALENT (FTE) EMPLOYEES DECREASED

Qantas employs 27,405 in its general aviation business, with a further 880 employees employed in its freight arm. Jetstar now employs around 3,700 staff. Jetstar staffing numbers are accelerating compared to its parent company.

Currently, approximately 70 per cent of Qantas employees who engage in Airports, Fleet, Freight, Catering and Transport are employed as full-time staff by Qantas Airways (see table). However, the number and proportion of full-time Qantas staff is in decline.

Despite marginal recent growth, the Qantas Group has been cutting its full-time workforce since 2005 (as shown in the graph below⁸). The number of full time equivalent employees dropped year after year, down from 35,520 (2005) to 32,490 (2010). A total number of 3030 full time jobs were cut in the past five years – almost one tenth less than it was five years ago (see figures below).



⁴ Steve Creedy, "Qantas chief left with \$11m payout", The Australian, September 22, 2009

⁵ Jack Gray, "Overpaid bosses: just call their bluff", The Australian Financial Review, 11 October 2011

⁶ Alan Joyce's 2011 remuneration package compare to a full time trainee ground crew work for Qantas fully owned company QGS.

⁷ Qantas Annual Reports F2001-2010

⁸ Qantas Annual Reports F2001-2010

FTE / PTE Ratios

Among workers covered by Qantas-TWU EBA7 (which expired in July 2011), who engage in Airport, Fleet, Freight, Catering and Transport operations within Qantas Group (including Q Catering & Qantas fully owned subsidiary QGS):

- Only 70 per cent of the workers are employed on full-time basis, as direct employees by Qantas Airways, or by fully owned companies of Qantas Group
- Approximately 17 per cent of the workers are employed on a part-time or casual basis; another 13 per cent are employed via labour hire agencies, with lower pay and fewer training than their counterparts
- Workers employed by Qantas fully owned subsidiary Qantas Ground Services (QGS), mostly working full-time but receive fewer entitlements compared to full time staff employed directly by Qantas Airways

Q Catering, Qantas' catering arm, is the subject of ongoing conjecture about being sold to private equity interests. Approximately half of all Q Catering staff are already casual.

It is evident to the Union that Qantas is ceding work traditionally performed by its main Qantas brand to private and private equity interests. In other areas, it is systematically substituting service delivery, including entire route services, to Jetstar.

Jetstar business practices (referred to later in the submission) appear to have emboldened Qantas to "cut out" discrete routes and engage staff who present as Qantas staff in all relevant employment respects, except they are employed under what should be classified as sham contracting arrangements.

For example, Tasman routes operated by a wholly-owned Qantas subsidiary, JetConnect, allow Qantas to pay 600 staff, including about 100 pilots, in cheaper New Zealand dollars. This means the pilots receive about 30 per cent less than their Australian counterparts, with the remainder of the workforce paid about 40 per cent less.

Qantas Group Strategy

Qantas is committed to systematically jettisoning class-leading practices and services in favour of lower cost business models, where staff are employed on lesser, more flexible terms.

Qantas has publicly rejected employees' demand for secure Australian Jobs. Alan Joyce recently said:

"They (employees) are demanding a guarantee of job security, and in effect, a veto on change... Jobs at Qantas have been historically secure. I understood people wanted job security, but it is no more in my power to guarantee jobs in writing than to promise that Santa will swing by December 24."⁹

The August 2011 strategy outlined plans to:

- reduce the Qantas workforce by 1000+ employees
- progressively abandon the airline's historical flagship business, Qantas International

⁹ Herald Sun, April 19, 2011

- move significant aviation businesses to (as yet, undetermined) Asian destinations and conduct its business adhering to relatively low safety and security standards in those destinations

As the TWU has previously asserted: it is difficult to comprehend how the relocation of new aviation businesses, to be owned and effectively operated by Qantas, especially those to be based in Asia, could not offend the provisions of the *Qantas Sale Act*.

Across the areas of eligible TWU membership, Qantas is seeking to massively increase the ratio of outsourced workers to direct employees. Evidence obtained during the recent Qantas arbitration before Fair Work Australia shows that Qantas has stopped employing people. Workers who leave Qantas Airways would be replaced by workers from its subsidiary companies such as Qantas Ground Handling (QGS) and other labour hire agencies.

Quotes from Qantas Consultant Ian Oldmeadow - during Qantas EBA negotiations

Ian Oldmeadow 3 Aug 2011

"We have cost structure problem and cant move with this proposal. We need to be competitive with the other airlines which are much more cheaper than Qantas. We believe your members are asking for a pay increase and some form of job security. Overtime is a difficult issue to work with in particular that there are low overtime hours available. Going forward we need to grow QGS and go towards our competitors at a lower rate. We require a transition, which will not affect your members due to the low cost competitors. We need a path to the lower cost structure"

Oldmaedow 8 Sep 2011

" We require QGS to grow due to the competitiveness in the market. We will protect the EBA 7 employees. Good move that the process have been changed to deal with the claim."

Confidential internal Qantas documents were obtained by the media in late 2011 that recommended the outsourcing of all Qantas ground handling services by 2020. This strategy was revealed as "part of Qantas' longer-term strategy to reshape the airline and lower labour costs."¹⁰

As discussed, Qantas has previously sought to sell its Catering arm, Q Catering¹¹; it has already ceded significant amounts of work formerly performed by direct employees to Gate Gourmet, a company that embraces aggressive employee relations practices and very high levels of casual staff.

Q Catering employs about 4000 staff and produces about 37 million meals per each year, including to other international carriers. It is these staff who are now faced with uncertain futures as Qantas continues to plan the sale of what it apparently believes is a "non-core asset"

Gate Gourmet is owned by Texas Pacific, a large private equity company. The TWU South Australia/Northern Territory Branch is experiencing Gate Gourmet's approach to service delivery and employee treatment first-hand. In Gate Gourmet's Darwin facility, TWU

¹⁰ 'Farming Out Was Qantas Option', Sydney Morning Herald, Matt Wade, October 24, 2011

¹¹ "Qantas has Catering Unit on the Block", Sydney Morning Herald, Matt O'Sullivan, December 14, 2011

members have not received a pay rise in almost two years and the company was threatening the abandonment of previously agreed allowances.

Fair Work Australia Arbitration

As part of the forthcoming arbitration before FWA, Qantas will seek the following increases in the use of contractors:

Group in Business	Current % Contractors	Proposed % Contractors
<i>Airports (Ramp)</i>	17	45
<i>Fleet Presentation</i>	30	55
<i>Catering</i>	23	45
<i>Freight</i>	5	25

Qantas is simply using the terminology of “flexibility” to justify a massive shift to lower cost operations. No defect has been asserted in the abilities of current Qantas staff, yet the airline is blithely arguing a need to increase the number of precariously employed individuals.

It remains to be seen how Fair Work Australia (FWA) will approach the issue of outsourcing work. Should FWA decline to impose reasonable limitations, the Union will campaign vigorously for satisfactory reforms to the Fair Work Act.

Qantas Auspoll Survey

Falling service standards are a direct result of ongoing cost-cutting and the low staff morale this approach creates. As Qantas continues its plans to abandon its flagship business by stealth, standards will fall further and with it, a loss of customer confidence. While staff bear the brunt of management’s flawed strategic vision and largesse, Qantas’ practices are being judged by the travelling public.

In 2011, *Auspoll* conducted a survey of travellers to gauge attitudes towards Qantas and its practices. Some disturbing survey results included:

- 84 percent of all respondents either agree or strongly agree that as the Australian flagship carrier, Qantas should employ people under conditions that Australians would find acceptable wherever the airline operates.
- Although over two-thirds of respondents were proud to have Qantas as Australia’s national airline, the majority believed it used to be a special airline but is now the same as most of other airlines
- 46 percent of all respondents agree that Qantas’ performance on safety is worse than it was five years ago and 30 percent hold the same opinion on the airline’s reliability.
- 31 percent of Qantas customers believe that overall quality has declined in the last five years and 28 percent see a decline in service.

71 to 79 per cent say the following issues are making them less confident about flying with Qantas:

- Qantas employing casual baggage handlers and runway staff who have not had the

same background security checks as permanent staff.

- Increased reliance on casual workers, resulting in increased chance of injury, accident and damage to machinery.

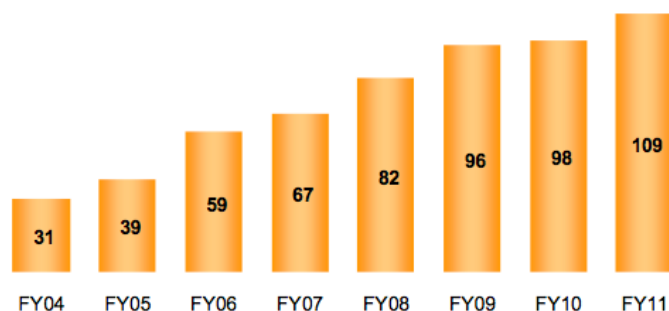
The *Auspoll* results illustrate increasing public concern over aviation safety standards. The public believes the national carrier's performance on safety has deteriorated in the past five years, with cost cutting and poor workplace conditions for employees diminishing the confidence they used to have in the airline.

QANTAS/JETSTAR

Jetstar is a wholly owned low-cost subsidiary of the Qantas Group. It is currently the third largest airline in terms of domestic market share and a top 5 international airline in terms of capacity share. Jetstar comprises Jetstar Domestic, including Express Ground Handling; and Jetstar International.

Jetstar is one of the fastest growing airlines in the Asia Pacific region. In FY2011, it experienced a 19% growth in terms of capacity, revenue was up 19% and a 29% profit increase was recorded (EBIT)¹².

Jetstar - Growing Network of Routes



Source: Qantas

In contrast to the general fall in distinctly Qantas employees, the number of Jetstar employees has grown 20% from 3,098 in FY2010 to 3,714 in FY2011.

In terms of staff eligible for TWU coverage, cost-cutting and hostile anti-employee measures have been used by Jetstar from the time it commenced operations.

For example, Jetstar's domestic baggage is handled by Express Ground handling, a Qantas subsidiary set up to deal with the new airline. Jetstar's international baggage is handled by Aero-Care, whose approach to service delivery is canvassed later in this submission.

There is growing domestic and international evidence concerning disturbing Jetstar staffing practices:

For example:

Jetstar cabin crew from Thailand were employed on Tour East contracts that effectively set no limit on hours of duty, and offered base wages of just \$258 a month, an extra \$7 an

¹² Qantas 2011 Investor Presentation Supplementary

hour when flying and no sick leave.¹³

Tour East is 37 per cent Qantas owned labour hire company base in Bangkok, with over 300 staff. Staff members recruited by Tour East serving Jetstar routes said would "not be alert enough to respond accordingly" in an emergency because of fatigue, as they are often asked to work shifts of up to 20 hours long. "I've had a couple of times where I've had a delay on the Bali flight and that 14-hour, 15-hour shift would turn into a 19-hour, 20-hour shift," one member said.¹⁴

A former flight attendant revealed that he quit his job at Jetstar because of safety concerns. The budget airline maintains it has rigorous safety standards but a clause in the contract for Singapore-based Jetstar crew states they could be forced to work shifts longer than 20 hours. In July 2011, the ABC's *Lateline* program revealed several Jetstar Thai-based crew signed bonded contracts. If they quit or were sacked, they had to pay up to four and half months of their base wage.¹⁵

Jetstar Flight Attendant Senate Inquiry Evidence

Jetstar's disturbing practices were also outlined in submissions to an Australian Senate Inquiry in November 2011. Transcript extracts follow that indicate that appalling standards that have been embraced outside Australia by Jetstar are now compromising the safety and welfare of staff and the travelling public.

Transcript Extracts

KELLY, Mr Michael John, Private capacity

NEETESON-LEMKES, Ms Monique Naiyana, Private capacity

Ms Neeteson-Lemkes:

I am here because I believe Jetstar uses unsafe rostering practices. These unsafe practices lead to fatigue, which in turn increases risk in flights that so many in this room travel on. I am here also because it seems my company does not react to the concerns raised by flight attendants. The internal safety reporting system, OSCARS, is failing to address these safety-related issues. Personal direct representations to management are ignored.

Jetstar have demonstrated numerous times that they take punitive action against those who raise concerns, which is why I am here today to state my concerns in a protected environment.

Mr Kelly: *I am a Sydney based international flight attendant. I work under an AWA contract. I have been in this role for five years. ... I am here today in support of my colleague Monique in putting forward the concerns Jetstar flight attendants have with regard to fatigue and safety. I am here also to state in a protected environment my concerns, and I hope that, with the picture painted by Monique and me, the government will take action once and for all.*

Concerning Jetstar Thai Cabin Crew

Ms Neeteson-Lemkes: *Yes, I am aware of the incident that you refer to with regard to the Bangkok flight attendant.*

...

It's been brought to my attention that if this specific cabin crew member who's no longer employed were to raise his concerns any further or speak to any union officials, even though they are not covered by or fall under a union, he would not receive his entitlements paid out to him—that is, his holiday benefits.

13 The Australian, 29 July, 2011

14 Lateline, 28 July, 2011

15 ABC Lateline transcript, 29 September, 2011

Senator XENOPHON: The complaint that has been put to me from overseas based flight attendants and from those who work for Jetstar here in Australia is that these flight attendants, whilst they're nominally based in Thailand or Singapore or another base, for example, actually spend most of their time within Australia flying either around Australia or in and out of Australia. What is your knowledge of those practices?

Ms Neeteson-Lemkes: My knowledge of those practices is that they are definitely flying within our domestic network. They are doing accommodations of four Melbourne returns six days in a row.

Concerning Sick Leave

Senator XENOPHON: I will try to put it more bluntly. Are there now tougher conditions for Jetstar flight attendants to obtain sick leave? If so, has there been a toughening of the conditions, and what has the toughening been?

...

Ms Neeteson-Lemkes: So, to answer your question more clearly, Senator Xenophon, sick leave is at an all-time high. Cabin crew feel that they are harassed for their sick leave. We have crew in Melbourne who have spoken to me in tears because they are being met by middle management at aircraft with letters of allegation to sign.

Mr Kelly: It also depends on what contract you are on. My AWA contract also states that if I fall ill, even for one day, I must go and see a doctor or fill out a statutory declaration. So, regardless of how sick I am, I still have to go to a doctor on that particular day and get a doctor's certificate. I have entered statutory declarations, and I have had base managers just ignore them.

Ms Neeteson-Lemkes: It is a standard company letter of allegation where they allege you have breached company policy. They give you a time frame in which you must respond, whether or not you believe you have breached those allegations, and provide any added documentation to prove that you have or have not breached the policies they have stated you have breached.

Concerning Working Time Limitations

Ms Neeteson-Lemkes: Delegates always impose a limit. For us, anything over 12 1/2 hours, pushing 13 hours, is extremely dangerous. We tend to not grant dispensations for those flights that go in excess of those hours. But, in saying that, dispensations only apply to certain types of cabin crew members who are employed under—

Senator XENOPHON: What are the circumstances of dispensation? Airline delay, bad weather—

Ms Neeteson-Lemkes: Malfunction, bad weather, short-notice sick leave. There can be 17 reasons as to why dispensation is required. Every time a dispensation is sought, we have to assess it individually. ...

Senator XENOPHON: How many hours?

Mr Kelly: My average days are anywhere between 12 and 14 hours, but I have extended up to 21.

Senator XENOPHON: Is that with a dispensation?

Mr Kelly: We do not fall under a union, so there is just pressure. We have to bring the aircraft home. The cabin crew just have to bring the aircraft home.

Senator XENOPHON: And for the Thai based flight crew?

Mr Kelly: I think they can go up to 24 hours.

Ms Neeteson-Lemkes: Twenty-four hours is correct.

Senator XENOPHON: Mr Kelly, do crew express concerns to you? Are they fearful of complaining? Are they fearful of saying anything that could jeopardise their jobs?

Mr Kelly: Very much so. That also extends to the Australian based crew.

Senator XENOPHON: How do you mean?

Mr Kelly: We had a focus group meeting on 30 April. We informed our manager, Mary-Lou Cann, of the safety concerns with the Bali returns.

Senator XENOPHON: *This is Sydney-Bali?*

Mr Kelly: *Sydney-Bali return. It is a 15 hour 30 minutes duty. I informed Mary-Lou that some cabin crew had fallen asleep coming into land.*

...

Ms Neeteson-Lemkes: *The fatigue issue has been very serious for many years now.*

Mr Kelly: *May I just add something. We had a crew member who operated a Bali return. On her way home she crashed her vehicle. Because she stopped for coffee to stay awake she did not receive any assistance from the company as she broke the journey from point A to point B. She is not with us anymore as she took her own life. This is the sort of thing we have been dealing with for some time. When we approach management with problems we feel like there is a closed door. We had a cabin crew member who had glandular fever and she approached the company for some off. She sent 13 emails and they were ignored, so she kept flying around the network with glandular fever. She is working with crew members and we also have pregnant passengers on board.*

Mr Kelly: *I completely understand that a business must make profit and you have to trim the fat to make that profit, but when I operate a 21-hour duty and I have fallen asleep on my jump seat—the critical stage of flight is take-off and landing. If the captain or the first officer is to fall ill or have a heart attack, as a flight attendant I have to be able to perform CPR. Or if you are flying on a Jetstar flight and you have a heart attack I have to be fit and able to work on you and keep you alive. But honestly I would have to say on most flights, especially the Bali returns, if a passenger did have a heart attack, I would probably have two to five minutes to work on them and I would be exhausted.*

These transcript extracts outline the reality for precariously employed staff. Working time limits – a fundamental safety feature of airline operations – are ignored, with breaches encouraged by management; and staff that challenge excessive working times face retribution.

Through expanding in Asian destinations, Jetstar (and Qantas) are seeking to lower standards of employment and employee protections. It is clear from the above testimony that non-Australian workers are being used to perform domestic jobs on a continuing basis. This practice ultimately offends the spirit of the law and undermines, not only the rights of the staff concerned, but all of the airline's Australian employees, who find themselves displaced by individuals whose rights are abused.

During his testimony, Mr Kelly commented that many Jetstar staff wished to be employed by Virgin Australia, which they believed embraced higher employment and staff welfare practices.

VIRGIN AUSTRALIA

Virgin Australia is Australia's second largest airline, with about 32% market share. (UBS)

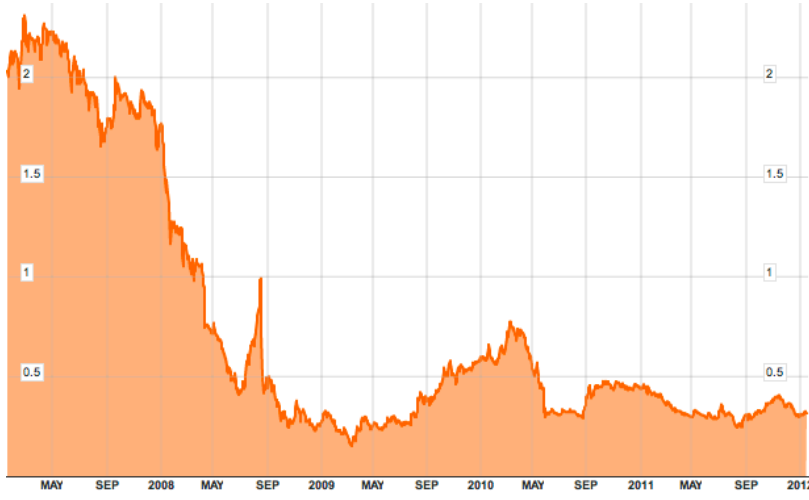
Its 2011 financial position was:

- Strong closing cash position of \$371 million despite challenging operating environment;
- Year on year revenue growth in excess of 9%, with stable Group yield;
- Corporate and government customers make up 13% of the total revenue, representing 29% year-on-year growth;
- EBIT loss of 18.4 million impacted by one-off events (eg. Queensland natural disasters, ash plume, Christchurch earthquakes);
- International network is EBIT positive at \$22.4 million;

- Statutory loss after tax \$67.8 million

Source: Virgin Australia 2011 Full Year Results Presentation

Virgin Australia Share Value over 5 Years



Source: Bloomberg

Over a 5-year period, the Virgin Australia share price has dropped from \$2.18 to \$0.31 on January 17, 2011, equivalent to an 86% loss.

Executive Remuneration

According to its 2011 annual report, Virgin Australia's total executive remuneration has increased 70%, from \$8,655,000 in 2010 to \$14,703 in 2011. The figure includes the remuneration package of its current Executive Director, former Executive Director, current Executives, former Executives, and former Non-Executive Director.

Employee Profile

	2011	2010
Full time employees	6,159	5,569
Part time employees	1,104	907
Australian Based	6,735	6,013
Total employees	7,263	6,476
% Part time	15.20%	14.01%

Source: Virgin Australia Annual Report 2011

The part-time employee ratio in Virgin Australia increased from 14.01% in 2010 to 15.20% in 2011.

Virgin Employment

Staff within areas covered by the TWU are engaged as follows:

- All baggage handling staff are employed by a private company, Aero-Care
- ground crew (i.e. ramp) staff are directly employed by Virgin
- catering tasks are performed by a private company Gate Gourmet (whose practices were canvassed earlier in this submission)

The Aero-Care website boasts that the company:

“[provides] unmatched levels of service to its customers by providing them with a competitive and commercial advantage in terms of cost and performance. Aero-Care is now the most experienced outsourced flight support organisation in the Australian aviation industry.”

The website goes on to comment on the advantages of engaging the company:

- Reduced costs
- Standardisation and uniformity
- Control and accountability
- Operational efficiencies and effectiveness
- Flexibility to meet growth

Virgin Australia has plainly contracted work out to companies that are aggressively committed to cost reductions and that observe lower standards of training and job security. This enables companies like Virgin to record high permanent staffing numbers while outside contractors perform vast sections of the airline’s work. Staffing statistics and profiles are rarely, if at all, publicly available. It is an opaque and inadequate system that enables poor staffing practice, if not sham contracting.

Virgin EBA Secure Work Provisions

Virgin Blue’s Ground Crew Agreement 2010 provides only marginal benefits in addressing the issue of precarious work for ground services staff. The agreement commits only to a process of internal advertising for new permanent ground crew (ramp) positions, with preference given to part-time staff.

Qantas/Jetstar and Virgin’s Approach to Employee Relations

While Virgin embraces industrial practices, such as outsourcing, that encourage precarious work arrangements, it is generally recognised as embracing a more constructive approach to employee relations than Jetstar. (This is a less than praiseworthy acknowledgement.) In an analysis of the establishment of Virgin Blue (VB) and Jetstar (JS), Professor Greg Bamber stated the following:

Although VB primarily used (South West Airlines) SWA as a model, for JS Qantas sought to select the best features from leading (low cost carriers) LCCs around the world and apply them to the Australian market. It aimed to adopt the efficiency of Ryanair, the branding of easyJet, the innovation of JetBlue, and the customer service of SWA (Joyce 2004).

Both carriers introduced features used by LCCs in the United States and Europe, including no interlining of passengers' baggage. JS introduced a twenty-five-minute flight turnaround. It also adopted "freestyle" seating (although subsequently introduced staggered boarding). In contrast, VB allocates seats in advance, which is more popular with passengers. Both LCCs try to implement a thirty-minute flight "close out" notion, though VB is more flexible about its application. During the early phase of its operations, JS's stricter policy caused irritation among passengers, which led to some negative publicity and prompted JS to soften its stance in this context.

In terms of the approach to industrial relations by Virgin and Qantas/Jetstar, Professor Bamber asserted:

From its inception, VB invited union involvement. In doing so it attempted to legitimize the employment contracts it was offering to employees; foster trust between the airline, employees, and their unions; ...

JS established different labour relations foundations to its parent by using former Impulse [airline] arrangements, several of which were non-union agreements. JS has since negotiated new agreements with most occupational groups, but they are broadly similar to the former Impulse contracts. Qantas hoped that the lower-cost culture of Impulse would make it easier to negotiate low-cost agreements with employees and unions than at Qantas, where they are accustomed to more generous benefits in terms of working hours, wages, and conditions.

Since JS was developed from Impulse, it has unionized and non-unionised occupational groups. The only unionized employees are cabin crew, 85 percent of whom are members of the FAAA, and ground staff, who are represented by the ASU. Ramp and baggage handling workers are represented by the TWU, but JS outsources these processes to a Qantas subsidiary. For non-unionized employees JS maintains "works councils" inherited from Impulse to facilitate consultation.¹⁶

Outsourcing and Off-shoring – The Future?

The practices now being followed by each of Australia's major airlines mirror those that have been used in developing countries and other poorly regulated nations, particularly in Asia. Australian aviation authorities and the Federal Government would do well to heed the alarming advice stemming from countries and staff that have spearheaded the low cost approach to airline operations

As the International Transport Workers' Federation stated in a study two years ago:

"Regions with expanding civil aviation markets, such as Asia, have experienced an increase in precarious forms of work and a decrease in stable employment ... between 2000 and 2007, evidenced by increased job outsourcing ... and a substantial increase in the percentage of short-term contracts (contract of less than one year), in most regions."¹⁷

In this scenario, the ITF stated, low-cost carriers continually stretch the boundaries of what their employees and passengers will put up with. Local airports and service providers are also forced to lower their charges and to provide 'flexible' and cheap labour or face the threat of abandonment by such carriers.

These companies exploit their workforce in their quest to lower running costs and to advertise the lowest fare. Sadly, many passengers are still taken in by the creative fare structures that obscure the true cost of many flights. And the drive to infinitely lower fares continues, despite concerns about its implications for both passenger and crew safety.¹⁸

An ITF survey canvassing aviation staff in 116 countries since 2001 discovered:

- Overtime work among cabin crew was strongly associated with mental fatigue. The conditions that were found to provoke severe fatigue in cabin crew caused them to have concerns about their ability to provide service to passengers and react to potential safety and security threats.

¹⁶ Gregory J. Bamber et al, "Low-Cost Airlines' Product and Labor Market Strategic Choices: Australian Perspectives", Labor and Employment Relations Association Series: Proceedings of the 58th Annual Meeting, 2006

¹⁷ "Changes from 2000-2007 in civil aviation workers' conditions of work", International Transport Workers' Federation, Civil Aviation Section, London 2009

¹⁸ ITF Stressed and Fatigued on the Ground and in the Sky, 2009, p. 5

- Regions with expanding civil aviation markets, such as Asia, have experienced an increase in precarious forms of work and a decrease in stable employment in the region between 2000 and 2007, evidenced by not only increased job outsourcing in all regions, but a substantial increase in the percentage of short-term contracts (contract of less than one year), in most regions.
- where there is growth in the industry it takes place in precarious forms of work.
- 80% of cabin crew reported an increase in flight hours between 2000 and 2007.
- Cabin crew and ground staff were the victims of significant increases in all types of abusive behavior between 2000 and 2007.
- Salaries, promotion prospects, and job security were lower in countries where there was no perceived option of an established collective bargaining process.
- Health and safety conditions got worse for all three groups in all regions between 2000 and 2007:
 - The general decline in health and safety conditions for cabin crew was accompanied by a worsening of conditions related to overwork, maternity protection and harassment, among other factors.
 - Among cabin crew, air traffic service workers and ground staff in all regions, half of all representatives reported that between 2000 and 2007 there were significant increases in the number of cases of work-related stress.
 - cabin crew, ground staff and air traffic service workers all reported significant increases in work-related injuries and illnesses, pain, sleep disorders, and absenteeism from 2000 to 2007.
- Between 2000 and 2007, cabin crew had an average of only 6.5 hours of sleep per night during layovers. Chronic sleep deprivation presents implicit negative implications for worker, public and passenger safety, and would imply the potential for increased risks of accidents.
- Between 2000 and 2007, cabin crew spent up to 4 hours traveling one way from airport to hotel, or hotel to airport - time that was meant to be their relaxation and rest time between flights. Travel time to and from airports greatly reduced the number of hours cabin crew had for rest and sleep between flights.
- Salaries, promotion prospects, and job security were lower in countries where there was no established collective bargaining process.¹⁹

It is these patterns of employment, together with the attendant safety risks and employee marginalization that are now being advanced by all major Australian airlines.

It is not only in areas of service growth where employment is overwhelmingly less secure than even five years ago, but in areas of current service delivery, the primary example being the relegation of traditional Qantas services to its low-cost company, Jetstar.

Security Issues

Security at major Australian airports is also threatened by the steady creep of precarious

¹⁹ *ibid*, pp 8-9

employment.

Any person who works in a secure area of an airport (such as baggage handlers) must display an Airport Security Identification Card (“ASIC”)

Baggage handlers are usually issued with either a red permanent ASIC (Red ASIC) or a yellow visitor (Temporary ASIC). Red ASICs are only issued after background and security checks by the AFP and ASIO (AusCheck) have cleared the person.

It can take up to 3 months for full background checks for permanent ASIC cardholders. As at 30 June 2010, there were almost 130,000 validly issued ASICs recorded on the AusCheck database.

Visitors entering securing areas at airports with Visitor Identification Card (VIC) do not need to undergo background check required for ASIC.

In May 2011, the Commonwealth Auditor General recently reported that tens of thousands of airport security cards were not properly checked before being issued, including 40,000 visitor passes issued from one airport gate alone in 2009-10.

The Auditor General found there were “inherent vulnerabilities associated with having a large number of issuing bodies as well as the return of expired or cancelled cards and visitor management”.

The TWU is concerned by “temporary” workers’ extensive use of visitor passes. Airlines commonly use visitor passes to ease entry to airports and airside facilities for employees who receive ongoing work from airlines. By reducing cost and avoiding administrative processes, especially background checks, they are exposing airports to potentially devastating criminal acts.

Examples include the case of a foreign national who was one of six members of a team of seven contract cleaners at Canberra airport on a student visa, was able to access secure areas at the airport with visitors’ cards instead of the Australian Security Identification Cards (ASIO).²⁰

Due to system flaws and high levels of staff turnover, the TWU estimates that approximately one-quarter of security staff at Qantas-managed terminals have not been security checked.

In February 2010 Qantas operations were found to have major safety flaws across the Domestic Terminal at Sydney airport. A WorkCover report published in early 2010 identified poor communication and inadequate training of staff as exposing the airport to the threat of terrorism and other emergencies. It found “reported hazards are not being looked into/ investigated in a timely manner.”²¹

The outsourcing that is damaging the safety and quality of the Australian aviation system is also evident in airport security. That security should itself be seen as an avenue for ongoing cost-cutting in the post September 11, 2001 environment speaks volumes for the current, inadequate approach to aviation security.

²⁰ Steve Creedy, “Airport worker breach highlights security risks”, The Australian, May 04, 2011

²¹ Kristy Needham, “Qantas in breach of safety laws”, The Sydney Morning Herald, February 27, 2010.

ROAD TRANSPORT

Statement by Sam, a truck driver

“You can’t owe more than \$80,000 on a vehicle and do what we’re doing. It’s just getting tighter and tighter to run a truck and support your family.”

Sam is an owner - driver that contracts to Linfox CDC. He is paid a pallet rate. There is no demurrage for waiting time. Sam works 6/10 hours a day. There are a number of issues in relation to how Sam is allocated work. After expenses, the amount Sam has left to cover his wages, long service leave, overtime rate, time spent on administration and washing the vehicle is \$22.22 per hour.

Statement by Tom, a 40-year-old driver from the Central Coast of NSW:

“I am doing 24 hours in unpaid waiting time a week. With trailers being pre-loaded by (client name suppressed), I cannot afford to wait another hour or so unpaid while they unload and reload a set of trailers to get the legal weight. I carry overnight regularly as I don’t have a choice.”²²

Statement by Francis, a Truck Driver

Francis has been working in the industry as an owner-driver for twenty-seven years. He says the only way he can survive in this industry is to work seven days a week regardless of fatigue. “I have to pay \$5,500 a month on my truck loan for the next five years, and I have three boys to raise. ”

Who the TWU Represents in the Road Transport Industry

Road Transport Industry	Rigid vehicle driver, B-double driver, tow motor driver, fork lift driver, tractor driver, straddle carrier driver, dump truck driver, articulated vehicle driver, multiple articulated vehicle driver, multi-axle platform driver, road train driver, line haul driver, gantry crane driver, heavy trailer driver, low loader driver, mobile crane driver, concrete mixer driver, motor driver’s assistant, vehicle washers/ detailer, greaser and cleaner, mechanical horse driver, crane chaser, radio operator, distribution facility attendant, loader, freight forwarder, courier (foot or bicycle), motorcycle rider, yard person, weighbridge attendant, transport rigger, picker, support crew, stretch wrapper, sorter, transport facilities worker, warehouse/ sub-assembly operator, supply base operator
--------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Role of Road Freight Industry in the Australian Economy

As of July 2011, the Australian Road Freight Industry generated \$45.9 billion in annual revenue and \$2.8 billion in profit. There are 44,562 businesses engaged in the sector in Australia, of which almost 30 per cent are located in NSW, 23.6 per cent in Victoria and almost 20 per cent in QLD.²³

Road transport accounts for over 1.7 per cent of Australian GDP.²⁴ The industry as a whole employs over 246,000 Australians,²⁵ and the freight task has been increasing at a rate of 5.6 per cent per annum.²⁶

Current industry revenue is segmented in the following manner:

- 39.9% long-distance intrastate services;
- 39.3% long-distance interstate services; and
- 20.8% capital city services.²⁷

The majority of industry operators are small operators (operating two or less trucks), including owner-drivers.²⁸ A significant proportion of road transport work is performed by independent contractors, of whom around 40% are dependent contractors who have no authority over their work.²⁹

Advice from DEEWR indicates that the estimated numbers of owner-drivers in Australia is approximately 71,000, although some other data sources suggest the number can vary between 20,000-150,000. This figure is broadly in line with the industry estimates that around 30 per cent of drivers are owner-drivers.³⁰

The business structure of the major players is significantly different to small and medium-size companies. The major players are providers of integrated logistics and distribution services.

General industry practice, however – and the lowering of standards that is evident in all areas – is very much directly linked to the overwhelming power exerted by major retail sector clients, principally Coles and Woolworths. These companies wield tremendous power in terms of transportation costs and have been responsible for a service and contract culture that threatens road safety and the lives of not only truck drivers, but those they share the road with. This is discussed further in following sections of this submission.

An IBISWorld report into the industry in December 2011 found that “market power in the industry is highly concentrated. The major companies, although contributing a relatively small amount to industry revenue, have significant market power through the whole supply chain and in infrastructure ownership.”³¹

Due to market power, they are in a stronger position to introduce measures such as fuel surcharges to protect profit. For major players, profit was positive in 2009-10, with growth

²³ IBIS report – Road Freight Transport Industry Report, July 2011

²⁴ *Road Safety Remuneration Bill 2011*, Second Reading Speech, House of Representatives, Minister Albanese, 23 November 2011.

²⁵ *Road Safety Remuneration Bill 2011*, Second Reading Speech, House of Representatives, Minister Albanese, 23 November 2011.

²⁶ *Road Safety Remuneration Bill 2011*, Second Reading Speech, House of Representatives, Minister Albanese, 23 November 2011.

²⁷ Finch, Caroline, IBISWorld Industry Report, I6110, *Road Freight Transport in Australia*, December 2011, p.13.

²⁸ *ibid*, p.8.

²⁹ ABS, *Forms of Employment*, November 2010

³⁰ *ibid*

³¹ Finch, Caroline, IBISWorld Industry Report, I6110, *Road Freight Transport in Australia*, December 2011, p.20.

derived from the acquisition of smaller players.”³²

The market power wielded by retail clients and major transport companies also enables them to subcontract work of marginal viability to other, smaller transport companies, which are prepared to breach industrial instruments in order to make a profit.

The TWU knows that as the contracting regime descends from principal contractor to sub-contractor, who may then also sub-contract the work out, levels of payment fall and job insecurity increase, as do safety risks. Sub-contracting also enables a head contractor to escape liability for any consequences that arise from misadventure or failure to properly perform the transport task they originally undertook to perform.

Approximately one in five transport and storage workers (22%) are employed as casuals³³, due to the prevalence of outsourcing and subcontracting as a measure of cutting costs and increasing client and employer power. (This corresponds to the general ABS data.)

Casual workers are normally engaged on a short-term basis³⁴. According to the ABS Labour Mobility data, an average 20% of transport, postal and warehousing workers had stayed in their job for less than 12 months between 2006 and 2010.³⁵

Major Employers in the Road Transport Industry

Major employers in the Australian road transport industry include Toll Holdings, Linfox and TNT Express. Details of each company are outlined below.

TOLL HOLDINGS LIMITED

Toll Holdings Limited is a one the biggest road transport employers in Australia, employing over 23,000 employees, among which around 19,000 are transport workers. It was ranked number 31 out of the top 2000 companies in Australia in 2011³⁶.

The company generates the majority of its income from the Road Freight Transport in Australia industry, with six operating divisions and associated transport brands:

- **Global Resources** - Toll Energy, Toll Offshore Petroleum Services, Toll Marine Logistics, Toll Mining Services, PDL Toll, Perkins
- **Global Forwarding**
- **Domestic Forwarding** - Toll SPD, Toll Regional, Toll Managed Transport Services, QRX, Toll Refrigerated, Toll Shipping, Toll Tasmania, Toll Tranzlink, Toll Auto Express, Toll Kaiata, Toll United
- **Global Logistics** - Toll in2store, Toll Chemical Logistics, Toll AutoLogistics
- **Global Express** - Toll Priority, Toll Air Express, Toll Dnata, Stream Solutions, Toll IPEC, Toll Fast, Toll Personnel, Footwork
- **Specialised & Domestic Freight** - Toll Linehaul, Toll Express, Toll West, NQX, Toll Fleet, Toll Liquid Distribution, Toll Transitions, Toll Inventory Capital Solutions

³² *ibid* p.7.

³³ Maria McNamara, The Hidden Health and Safety Costs of Casual Employment Report, May 2006, Industrial Relations Research Centre University of New South Wales

³⁴ *ibid*

³⁵ Labour Mobility, by Australian Bureau of Statistics, 3 September 2010

³⁶ IBIS - Toll Holdings Limited - Premium Company Report Australia (June 2011)

In February 2011, Toll Holdings reported a net profit of \$164 million (up 53%) for the half-year ended December 31, 2010. For full year result released in June 2011, Toll's revenue increased 18 per cent to \$8.23 billion, with earnings before interest and tax (EBIT) up 7.3 per cent at \$436.4 million.

	Position	2011 Remuneration Package	2010 Remuneration Package	Change
Paul Little	Former Managing Director	\$6,037,000	\$5,761,000	+5%
Brian Kruger	Current Managing Director	\$2,158,000	\$1,620,000	+33%

Source: Toll 2011 Annual Report

Toll Employees

Toll Group Operational Divisions (consolidated) Workplace Profile (09 / 10)³⁷

	Permanent Full Time		Permanent Part-Time		Casual		Contractor / Temp		Total Employees	
	2009	2010	2009	2010	2009	2010	2009	2010	2009	2010
Management	578	778	4	6	1	1	0	4	583	789
Accounting /Admin	1369	1786	154	130	678	581	156	342	2359	2838
Sales & Marketing	443	486	5	9	8	1	7	16	463	512
Operations/ Labour Hire	8193	9040	326	373	3993	3788	1097	2264	13609	15465
Subcontractors	3080	2376	119	54	1	10	186	1074	2286	3514
Total Transport Workers (Operations/Labour hire + Subcontractors)	11273	11416	445	427	3994	3798	1283	3338	20400	23118

Approximately 66 per cent of employee & labour hire drivers are employed on a permanent full-time basis; another 6,052 employed by Toll Holdings and through labour hire agencies are employed on a casual or temporary basis, with no guarantee on their working hours or job security.

The above table shows from 2009 to 2010:

- A decline of over 800 permanent full-time positions in the operations/labour hire category
- A fall of 700 permanent full-time sub-contracting positions
- A 100% plus increase in temporary and contract positions
- A greater than five-fold increase in the number of sub-contractors engage as contract/temporary staff

37 Toll Holdings Limited – Report to Australia Government Equal Opportunity for Women in the Workplace Agency - 2009 & 2010 Consolidated

The table and on-the-ground evidence indicates that Toll is shifting responsibility for much of its work from direct employees to externally contracted staff and engaging substantially fewer permanent staff.

Toll EBA Secure Employment Provisions

In March 2011, the TWU reached a 30-month in-principle deal with **Toll Holdings**. Employees covered by Toll's labour-hire arm were included in the agreement for the first time; owner-drivers would be paid the site labour rate; and casuals, including labour-hire casuals, were given the right to permanency after six months.

LINFOX PROPRIETARY LIMITED

Linfox Proprietary Limited is a privately owned company that provides supply chain management services, such as basic transport, warehousing, supply chain modeling and web-based track-and-trace systems. Linfox has a fleet of over 4,200 vehicles, more than 500 armoured vehicles and over 250 sites of operation.

Linfox accounts for 5.3% of the industry's total market share, the highest percentage of all Australian transport companies.³⁸ In 2011-2012, Linfox's revenue was \$2.23 billion, up 7.2% from the previous year.³⁹

Linfox Financial Performance – Five Year Review

Linfox Proprietary Limited – financial performance

Year	Revenue (\$ billion)	(% change)	Employees
2005-06	1.5	7.1	10,069
2006-07	1.7	13.3	N/C
2007-08	2.0	17.6	13,000
2008-09	2.5	25.0	15,000
2009-10	3.0	20.0	N/C

SOURCE: IBISWORLD

Linfox experienced significant growth in 2011, including:

- Renewal of contracts with Coles and Liquorland stores in NSW for 5 years;
- Began work for Fortescue Metals Group in WA's Pilbara region;
- Commissioned the Melbourne national distribution centre for National Foods;
- Won new fuel distribution work with Caltex in several Australian markets;
- Formed a joint venture with Agility Logistics for WA's Gorgon project.⁴⁰

Linfox EBA Secure Employment Provisions

Following extensive negotiations, in July 2011, the TWU struck a ground-breaking agreement with transport giant **Linfox**, now seen as a benchmark for transport workers across road transport and distribution. The agreement includes provisions to make casual workers permanent after six months.

TNT EXPRESS

³⁸ Finch, Caroline, IBISWorld Industry Report, I6110, *Road Freight Transport in Australia*, December 2011, p.26.

³⁹ *ibid*, p.26.

⁴⁰ Linfox Year in Review, 2011

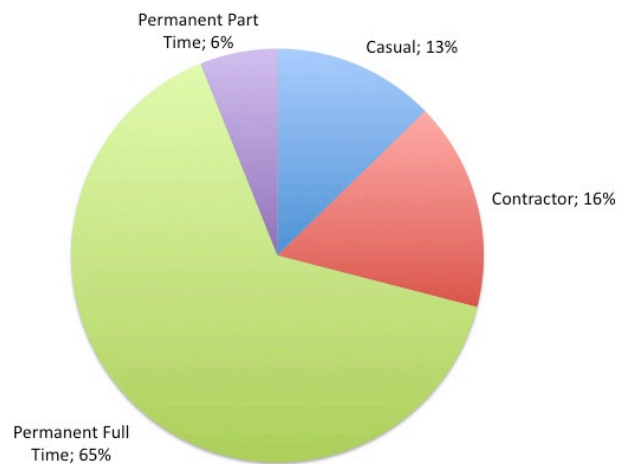
TNT Express is among the leading courier-express-parcels operators in Europe, with company-owned activities in 62 countries. Asia Pacific is a key growth area for TNT Express; in 2010, the company experienced strong domestic revenue growth, particularly in Australia. (TNT Annual Report 2010)

Asia-Pacific

Year ended at 31 December	2010	variance %	2009
Operating revenues	1,656	33.2	1,243
Operating income (EBIT)	14	143.8	(32)
Underlying operating income (EBIT)	14	170.0	(20)

(in € millions, except percentages)

According to TNT Australia's EEO report in 2010, there were 3,834 depot operators. The pie chart below reveals 35% of TNT workers in Australia were employed on a non-permanent basis, with 16% (512) being contractors and 13% (399) casuals.



TNT EBA Secure Work Provisions

Prior to November 2011, around 40 per cent of TNT drivers were on labour hire contracts with no annual leave, sick pay or overtime penalties. After 10 months' negotiation and TNT's refusal to negotiate a fair agreement, TNT members secured casual to permanent conversion clauses, and equal pay for contractors and casual workers as directly employed workers.

Client Power: The Influence of the Major Supermarkets

The transport industry is characterised by chains of successive contracting out of work with commercial power and in many cases, standards, decreasing with each successive step.

Commercial pressures, most notably from major retailers, have intensified, resulting in the major transport companies tendering for contracts at very low rates and leading to the result that they subcontract out any work that they cannot profitably perform, normally to small operators who in many instances do not observe sound employment standards and who engage staff on precarious and irregular terms.

It is notable that 30% of all road transport movements and up to 70% of all retail-related road transport movements are connected with Coles and Woolworths' business requirements.

Commercial pressures exercised by major retailers are in the form of directed delivery schedules placing stress, and at times, unrealistic expectations on the driver actually performing the work

COLES

Coles Supermarkets and the liquor and convenience businesses have experienced strong growth since being acquired by Wesfarmers Group in 2007. In FY2010, Coles delivered full-year revenue of \$30 billion, a rise of 4.2% on the prior corresponding period. Earnings before interest and tax (EBIT) grew to \$962 million, up 15.8% on the previous year.

Coles in FY2011:

(Operations)

- Full service supermarket retailer operating 741 stores;
- Liquor retailer operating 785 liquor outlets;
- Fuel and convenience operator managing 620 sites;
- 94 new format supermarket stores delivered during the year;
- Approximately 18 million customer transactions each week;
- Employing more than 102,000 people;

(Financials)

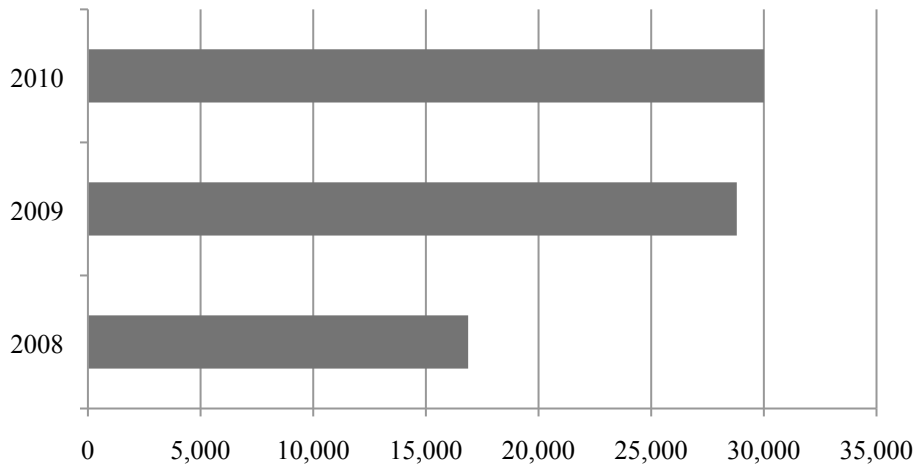
- Full-year revenue of \$32.1 billion;
- EBIT of \$1,166 million;
- Food and liquor store sales growth up 6.3%, with comparable store sales growth of 6.3%;
- Nine consecutive quarters of industry out-performance;
- Double-digit growth in fresh food sales;

Revenue (\$m)		EBIT (\$m)	
\$32,073		\$1,166	
2011	32,073	2011	1,166
2010	30,002	2010	962
2009	28,799	2009	831
2008*	16,876	2008*	475

(Source: Wesfarmers 2011 Annual Report)

Ian McLeod, the Coles Managing Director, received a 94% increase for his total remuneration package to \$15.6 million in 2011. (Wesfarmers 2011 Annual Report)

Coles Full-Year Revenue



Coles Online, a new venture, has 80% of delivery drivers casually employed. It marks an effort by Coles to establish its own road transport service in place of engaging an independent logistics company.

Coles' ambitions in internalizing this work are disturbing in that they represent an effort to undermine current industry (and Award) standards. Delivery drivers employed by Coles Online are currently paid under the General Retail Award instead of *Road Transport and Distribution Award*, receiving almost \$ 7 less an hour than the applicable Award prescribes. The company is also refusing to agree to standard allowance clauses and pay for parking fines, despite drivers working in densely populated urban areas with limited access and parking opportunities.

Coles' attempts to undermine basic industry standards are being closely monitored by the TWU.

Coles and its major rival, Woolworths, are driven purely by profit and market-capture considerations. Both companies' approach to contracting is to ensure work is done within timeframes that can compel dangerous practices; whether the safety or the earnings of the truck drivers are reasonable seems to be beyond their interests.

WOOLWORTHS

Woolworths Limited reported an increase in earnings per share of 6.9% and net profit increase of 6% to \$1,1161.7 million in February 2011.

Extra info on Woolworths in FY2011:

(Operation)

- Opened 21 new supermarkets, and refurbished 78 supermarkets;
- Total trading area in Australian Food & Liquor grew by 3.5%;

(Financials)

- Australian Food & Liquor sales were \$36.2 billion, an increase of \$1.5 billion or 4.3%, with comparable sales for the year increasing by 3%;
- Australian Food & Liquor EBIT increased \$186.4 million to \$2,678.9 million or 7.5%;

Sales (\$m) ⁽¹⁾

07	36,670
08	40,475
09	42,494
10	44,287
11	46,312

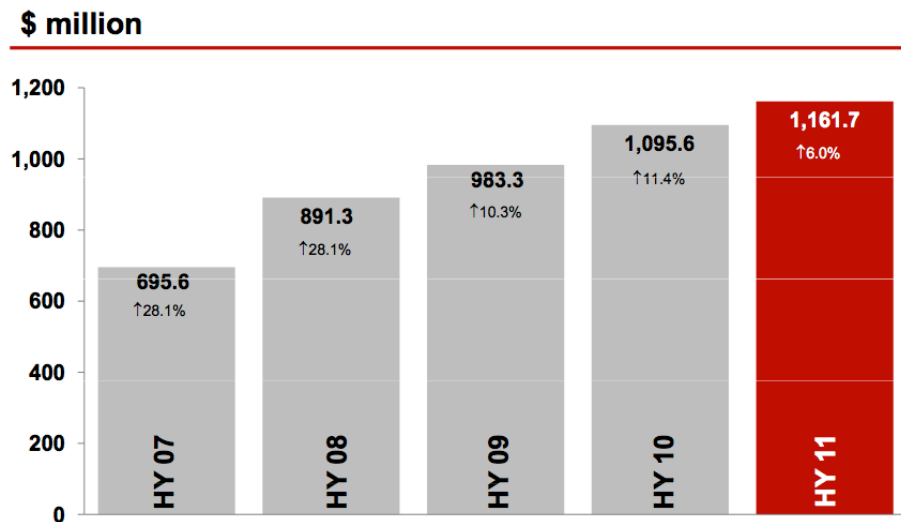
EBIT (%) ⁽¹⁾

07	5.01
08	5.36
09	5.76
10	6.28
11	6.45

Note: (1) includes Australian Food and Liquor, Petrol and New Zealand Supermarkets

Source: Woolworths 2011 Annual Report

Profit after tax – up 6.0%



Source: Woolworths Company Results HY Ended 2 January 2011

	Position	2011 Total Remuneration Package	2010 Total Remuneration Package	Change
Grant O'Brien	Deputy CEO and CEO designate (appointed 4 April 2011)	\$2,044,330	\$1,660,033	+23%

Source: Woolworths 2011 Annual Report

Apart from an overriding interest in cost-cutting and a burgeoning gap between executive and general staff and contractor earnings, both Woolworths and Coles measure their performance against economic “boom” periods. They consequently portray anything less than a boom time financial year result as a sign that workplace flexibility is insufficient and labour costs are too high. As we know, the impact of any economy-wide decline or falls in consumer confidence are always shouldered by everyone other than senior company executives.

Pressures Faced by Truck Drivers

Results from one of the largest ever surveys of truck drivers showed around forty per cent of truck drivers report being pressured into breaking fatigue regulations and one-in-four have said they are forced to drive at excessive speeds in order to meet deadlines set by clients or employers.

The Transport Workers' Union's '2011 Safe Rates Survey' took comments from 715 transport workers from across the country. The results confirm the outcomes of previous surveys and driver consultations.

The survey again revealed the deadly squeeze that powerful industry clients, like the major retailers, apply to drivers and operators.

The survey showed that:

- **Unpaid work:** 48 per cent of drivers report almost one day a week in unpaid waiting time. For delivery drivers it is more than 10 hours a week. This represents 300 – 500 hours a year working without pay.
- **Unsafe vehicles:** an alarming 56 per cent of owner-drivers have had to forego vehicle maintenance because of economic pressure.
- **Unnecessary risk:** 27 per cent of drivers felt they had to drive too fast, and nearly 40 per cent feel pressured to drive longer than legally allowed as a result of client pressure.

The statistics are otherwise complemented by the Department of Infrastructure and Transport's 2010 *Road Deaths Australia Report*, which shows 256 deaths in crashes involving heavy trucks - seven fatalities more than the year before. The number of deaths in trucks under 4.5 tonnes are not formally calculated, but are generally known to be high.

The safe rates survey built on years of academic examination and formal inquiry that acknowledged the link between on-road behavior and incidents with client and industry demands.

A recent landmark inquiry by the National Transport Commission resulted in a 2008 report: *Safe Payments - Addressing The Underlying Causes Of Unsafe Practices In The Road Transport Industry*, October 2008. The report was prepared by the National Transport Commission with The Hon Lance Wright QC and Professor Michael Quinlan.

The report found that:

- Truck drivers' workplace is mobile and inevitably interacts with public spaces shared by other motorists, the general public, pedestrians and other commercial users.⁴¹
- Sharing this workspace with the public and other users can result in serious consequences. In this sense, the transport industry has a unique and higher burden than many other industries in relation to safety outcomes.⁴²
- Around 330 people are killed each year in crashes involving a heavy vehicle. Around

⁴¹ *Safe Payments - Addressing The Underlying Causes Of Unsafe Practices In The Road Transport Industry*, October 2008. The report was prepared by National Transport Commission with The Hon Lance Wright QC and Professor Michael Quinlan, pg 5

⁴² *ibid*, pg 5

16 per cent (or 52) of those killed are the drivers of the heavy vehicle.⁴³

- Australia's record [is] significantly worse than that of both the USA and UK (Quinlan et al, 2006) Fatalities and serious injuries represent only the tip of the iceberg of occupational health and safety problems in the industry.⁴⁴
- Crashes involving heavy vehicles (trucks and buses) are estimated to cost around \$2 billion a year out of the total \$15 billion costs of road crashes. (Australian Transport Safety Bureau.)⁴⁵
- There are a number of on-road factors that can contribute to the poor safety outcomes in the road transport industry. These factors include: *fatigue*, speeding, *drug use*, poor vehicle maintenance, inattention; and road or environmental conditions.⁴⁶
- Surveys undertaken indicate that the experience of fatigue while driving is a regular part of the work experience of many heavy vehicle drivers. Over a 15-year period, around 76 to 78 per cent of truck drivers rate fatigue a major or substantial problem.⁴⁷
- In the 'Health Survey of the NSW Transport Industry', it was found that:

"On average NSW truck drivers work 62-hour per week which is much greater than the Australian full-time employee average of 43 hours per week. Alarming 65% state they work more than 60-hours per week and 6.5% more than 100-hours." (Australian Rotary Health Research Fund, 'Health Survey of NSW Transport Industry' 2008.)⁴⁸
- A survey indicated that one in six (18%) drivers considered that 'stay awake drugs' were helpful way to manage fatigue. (National Heavy Vehicle Safety Strategy 2003-2010.)⁴⁹

There is plentiful anecdotal evidence that an increasing pool of casual staff are displacing permanent and regular casual workers, lest they exceed a weekly limit that would cause loadings or penalties to be paid. In these circumstances, regulatory breaches are very difficult to detect and pursue. It is also the case that staff whose rights are being infringed are normally uncomfortable in coming forward owing to the fear of unsettling their already precarious employment status.

CONCLUSION AND RECOMMENDATIONS

In the aviation and road transport sectors, the Australian public witnesses companies that project themselves as reliable, cost-effective and friendly in a distinctly "Australian" way; they

⁴³ National Road Transport Commission (2003). National Heavy Vehicle Safety Strategy 2003-2010.) - in Safe Payments Inquiry Report, 2008, pg 5

⁴⁴ Quinlan and Mayhew submission to WorkSafe Victoria, 2006 - in *Safe Payments - Addressing The Underlying Causes Of Unsafe Practices In The Road Transport Industry*, October 2008. The report was prepared by National Transport Commission with The Hon Lance Wright QC and Professor Michael Quinlan

⁴⁵ *Safe Payments - Addressing The Underlying Causes Of Unsafe Practices In The Road Transport Industry*, October 2008. The report was prepared by National Transport Commission with The Hon Lance Wright QC and Professor Michael Quinlan, pg 6

⁴⁶ *ibid*, pg 7

⁴⁷ *ibid*, pg 8

⁴⁸ *ibid*, pg 8

⁴⁹ *ibid*, pg 9

reflect the notion of a 'fair go'. This veneer, as reflected in vast advertising campaigns, conceals business practices that severely conflict with the fairness, helpfulness and determination that make up the intangible notion of the Australian way.

In each area of coverage, the TWU aims to set fair national benchmarks in negotiations with major employers. (Regional approaches are also taken by State Branches and Sub Branches, which often focus on particular employment issues.)

Attachment 1 sets out relevant terms in national industrial agreements aimed at curbing the growth of precarious working positions.

AVIATION

The major outstanding arrangement is with Qantas, with arbitration set to begin in March 2012. As stated earlier in this submission, Qantas aims to substantially increase the number and proportion of outsourced positions across all business areas. Qantas has otherwise indicated that it will not employ further staff on traditional Qantas terms; moreover, it will seek to displace workers on these terms and conditions in favour of recruiting services through external providers, where employees and contractors have fewer entitlements and differing salary arrangements.

Qantas' actions constitute the systematic downgrading of airline quality, safety and service levels. It is cavalier and a denial of the rights of the staff that have seen the airline reap continuous profits, including during the global financial crisis.

The TWU is seeking, through FWA, casual conversion rights, a 20 per cent limit on supplementary or outside labour hire and site rates for all staff employed through outside hire. Arbitration proceedings commence in March 2012.

Notwithstanding the outcome of the Qantas arbitration aviation, the decline in job security and employment standards across the major airline operators means that an 'industry-wide' industrial agreement should be progressed to protect employees, standards of work and levels of safety.

Such an agreement would ensure fair basic standards for all workers performing the same work at different sites. Companies would remain able to use different work strategies, as is currently the case, but the incentive to deliberately lower costs and service standards by outsourcing existing and future jobs would be diminished.

In any event, Australian airlines should be compelled to satisfy a test that work it seeks to outsource cannot be performed by existing in-house employees.

ROAD TRANSPORT

Many, but not all, of the dangerous pressures faced by truck drivers should be ameliorated by a recent landmark commitment by the federal Government.

In November 2011, the Federal Minister for Transport, the Hon Anthony Albanese, announced that the Government would establish a new tribunal to make determinations about 'safe rates' of payment throughout the trucking industry. This will cover employee and owner-drivers.

Legislation was introduced to the House of Representatives shortly following the Minister's announcement and debate is set to resume in April 2012. The presumed enactment will facilitate the establishment of a new tribunal from July 2012.

The independent tribunal arising from this legislation will establish and maintain enforceable rates and related conditions for all truck drivers (owner-drivers and employee drivers) and to create binding obligations, as necessary, on transport supply chain participants such as the major industry clients.

The TWU believes the legislation now before our national parliament recognises that the concentrated market power of the organisations such as the major retailers compromises safety and compels less powerful players in the supply chain to accept rates of payment that barely cover costs and places deadly pressures on drivers.

While safe rate determinations will deal with unsatisfactory and dangerous rates of pay over time, the scheme is not designed to manage levels of permanent, casual or contracted labour. Therefore, there is much scope to improve the lot of workers in this growing sector.

Although the TWU has been successful in seeking to cap the growth of precariously employed positions in major road transport companies, without national caps or limitations across the sector, employers will seek to continue to engage labour via sub-contracting. This will result in many employees' reasonable rights to predictable working hours and leave entitlements being infringed.

The TWU supports enterprise-based agreements where possible. However, given the strategies being employed by major companies in aviation and road transport and smaller, transient operators in the latter, the TWU acknowledges better safeguards are warranted.

Accordingly, the TWU supports ACTU efforts to progress:

- Broad-scale casual conversion clauses and a mechanism to pursue 'Secure Employment Orders'
- Ensuring contractors have rights to bargain collectively where they so wish
- Ensuring there are reasonable mechanisms to prevent and prosecute sham contracting
- Creation of an industry Codes of Practice for labour hire
- Greater access to multi-employer bargaining
- Default application of agreements when engaged via labour hire
- Procurement reforms where government contracting processes can take account of the employment practices of companies seeking Government contracts