

## **PROPOSED COMMISSION / COURT POWERS IN RELATION TO CONTRACTS AND COST SCHEDULES**

### **Freight rates**

1. The Commission should not have the ability to make orders setting freight rates for road transport businesses, however constituted.

### **Ability to set contract standards**

2. The Commission should be able to make orders setting road transport contract standards, including in relation to—
  - a. the adoption of mandatory formulas for setting and adjusting fuel levies, without setting a specific percentage rate
  - b. payment terms
  - c. one way termination for convenience clauses
  - d. any other contract terms the Commission considers appropriate, subject to (1) and (4).

### **Determination that a contract is unfair**

3. The Commission or a court should be able to determine that a road transport contract term is unfair if, under all the circumstances, the parties are unable to demonstrate that a contract term has regard to the costs faced by the business, including—
  - a. the cost of fuel or energy
  - b. financing or depreciation costs for the vehicles involved
  - c. employee or contractor remuneration
  - d. servicing and maintenance in accordance with the vehicle manufacturer's service schedules
  - e. specialised equipment
  - f. tyres and parts
  - g. insurance
  - h. government taxes and charges
  - i. toll, port, weighbridge and washout fees
  - j. accreditation and auditing fees
  - k. telematics charges
  - l. customer compliance costs
  - m. any other costs the Commission or court considers relevant.

4. In making a determination under (3), the Commission or court should be required to consider—
  - a. the ability of businesses to purchase goods, services and finance at different rates
  - b. the financial structure of the business
  - c. if the costs faced by the business are reasonable compared to the costs faced by a well-run business of similar size and management skill
  - d. if the business has chosen to spread costs across the whole of a contract period, multiple customers or more than one leg of a multi-leg journey
  - e. if the business is offering transport services as part of a broader contract package (for example, a manufacturer may choose to offer free or discounted transport as part of a broader supply contract)

#### **Publication of indicative cost schedules**

5. The Commission should be able to publish indicative cost schedules to assist businesses to comply with (3).
6. To develop cost schedules, the Commission should be required to constitute an Expert Panel under new provisions to be added to s 620 of the Act.