

COMPETITION AND BANKRUPTCY IN THE AUSTRALIAN ROAD TRANSPORT  
INDUSTRY. AN ANALYSIS OF REPORTS BY THE OFFICIAL RECEIVERS  
IN BANKRUPTCY.

G. Webb  
Senior Lecturer in Economics  
Faculty of Military Studies  
University of New South Wales  
Royal Military College  
Duntroon

*Abstract:*

*The main findings of an analysis of 354 files on bankrupt road transport drivers in the Bankruptcy Districts of the States of Victoria and New South Wales are outlined. Data on age and marital status of bankrupt drivers, type of operation and cause of bankruptcy is presented. Finally, a number of policy implications are discussed.*

COMPETITION AND BANKRUPTCY IN THE AUSTRALIAN ROAD TRANSPORT INDUSTRY.  
AN ANALYSIS OF REPORTS BY THE OFFICIAL RECEIVERS IN BANKRUPTCY.

INTRODUCTION

An important, but hitherto neglected source of information on bankruptcy in the Australian road transport industry, are the reports prepared by the Official Receivers for the various Bankruptcy Districts, under Section 19 of the Bankruptcy Act 1966, on the history and causes of bankruptcies of road transport drivers. The object of this paper is to outline the main findings of an analysis of 354 files containing these reports (and associated transcripts of public examination <sup>(1)</sup>) in the Bankruptcy Districts of the States of Victoria and New South Wales, and the Australian Capital Territory <sup>(2)</sup>. The findings cover the period 10th July, 1974 to 30th June, 1980, and are based on an analysis of the bankruptcies of both individuals and partnerships in the road transport industry.

UNDERSTATEMENT OF BANKRUPTCIES

Prior to December 1978, the monthly statistical returns prepared by the Registrars in Bankruptcy recorded the number of individual files in their offices as the number of bankrupts involved. However, as some of the files covered partnerships, the statistics on the number of bankruptcies were understated. Some idea of the extent of this understatement can be gauged from an analysis of 59 files in the Office of the Melbourne Registrar in Bankruptcy, which covered road transport drivers for the financial year 1977-78. The analysis revealed that 46 of the files covered individuals, whilst 13 of the files covered partnerships.

Since December 1978 the understatement has been eliminated, because the Registrars in Bankruptcy have used a new statistical return which indicates the number of bankrupts involved in each bankruptcy and sequestration order.

CAUSES OF BANKRUPTCY

The reports prepared by the Official Receivers list a large number of factors as being responsible for the bankruptcies of road transport drivers. These include lack of working capital, failure to insure vehicles, downturns in economic activity, loss of contracts, lack of business acumen, failure to keep proper books of account, lack of realistic rates, industrial disputes, excessive use of credit facilities, losses on the repossession of vehicles, vehicle breakdowns, vehicle accidents, illness, gambling and failure to provide for provisional income tax and workers compensation.

---

1. Prior to 8th April 1980, any estate in which the liabilities did not exceed \$4,000 was administered as a small bankruptcy, and there was no statutory requirement that a public examination be held. However, the Official Receivers of the Bankruptcy Districts could exercise a discretionary power to apply for a public examination, if they thought that such an examination was desirable. Since that date the provision about small bankruptcies has been repealed, and the discretionary power has been extended to all cases.

2. Files relating to bankruptcies in the Australian Capital Territory are held in the Office of the Sydney Registrar in Bankruptcy

However, four main categories stand out, namely liquidity problems, economic conditions, lack of business acumen, and industrial disputes. Of these, insufficient liquidity appears to cause the most bankruptcies. As new trucks list for up to \$99,000, most owner-drivers incur substantial financial obligations to enter the industry. After outlaying all their money to purchase a truck, there is often a serious cash flow problem. If the owner-operator has idle or down time because of illness, vehicle accident or vehicle breakdown, and is faced with substantial hire-purchase or lease costs, he often becomes insolvent. The following extract from page 20 of the transcript of public examination on file 356/77 in the Office of the Melbourne Registrar in Bankruptcy illustrates the lack of working capital of some drivers:

"You engaged in interstate transport did you?  
 ...Yes sir.  
 How were your finances then? ...  
 No good sir.  
 No good at all? ... No ...  
 You had no working capital or no reserve of capital? ...  
 No sir".

Some reports by the Official Receiver for the Victorian Bankruptcy District show that because of a lack of working capital, drivers have been unable to make payments under hire purchase agreements following vehicle accidents or vehicle breakdowns, and their vehicles have been repossessed. One example is provided by the following extract from page 4 of the report of the Official Receiver for the Bankruptcy District of the State of Victoria on file 287/78:

"In June, 1976 the bankrupts leased a 1975 Volvo Prime Mover and Haulmark Trailer from ... The leases were for periods of four years with monthly payments of \$986.17. The male bankrupt commenced working as a sub-contract interstate driver. He claimed that over the following six months the truck was off the road on a number of occasions due to breakdowns. He incurred extensive repairs in that period. The prime mover and trailer were repossessed in January, 1977, when rental payments were three months in arrears. The units were sold in April, 1977 with deficiencies on the sale totalling \$18,994.89."

Frequently, it is the loss incurred on the forced sale of a vehicle under hire purchase that is responsible for the actual bankruptcy. One example is documented on file 941/78 in the Office of the Sydney Registrar in Bankruptcy. The report of the Official Receiver states that the bankrupt purchased a second hand prime mover in November 1977 for \$30,000. The vehicle was repossessed in September 1978 and sold, leaving the bankrupt with a debt of \$20,000.

Other reports show that lack of working capital forces some drivers to operate vehicles without insurance. When accidents occur, repairs are not made and the drivers suffer loss of income. The following extract from pages 3-4 of the report of the Official Receiver for the Bankruptcy District of the State of Victoria on file 233/78 provides an example:

"In November, 1976 the bankrupts formed a partnership in order to commence business as interstate cartage contractors. In December, 1976 they entered into a lease agreement with ...

## ROAD TRANSPORT BANKRUPTCIES

and leased a White Prime Mover. The agreement provided for 48 monthly payments of \$875 with a residual value of \$20,000. As further security the finance company took a second mortgage over the house property. The vehicle was involved in an accident at Yass New South Wales in January 1977 and was extensively damaged. Because the insurance company had not been paid the premium in full it would not admit the claim and no repairs were effected. During this time the bankrupt was unemployed ... Eventually the vehicle was repaired at a cost of \$19,647 ... The bankrupts attributed their bankruptcy to the vehicle accident and resulting loss of income coupled with the failure of the insurance company to pay for the repairs."

One factor which may help to explain why undercapitalised drivers are drawn into the road transport industry is the practice of financing equipment on false deposits. This is done by showing the cash price on the hire purchase agreement at an inflated price, together with a false deposit. An example is provided by the following extract from page 6 of the transcript of public examination on file 334/78 in the Melbourne Office of the Registrar in Bankruptcy:

"In order to increase their income the bankrupts decide to form a partnership and commence business as cartage contractors. In order to obtain capital the caravan was sold for \$4,000 but there was a deficiency of \$1,800 owing to ... In April 1977 the bankrupts purchased a Ford Prime Mover through ... They claimed that the actual cost of the vehicle was \$6,700 but was increased to \$8,500 by adding the deficiency on the caravan. The actual amount shown on the hire purchase agreement was \$10,500 with a deposit of \$2,000. The bankrupt said no deposit was paid."

A second example is provided by the following extract from page 6 of the transcript of public examination on file 356/77 in the Melbourne Office of the Registrar in Bankruptcy:

"What was the original amount of the agreement? ... \$6,000. Are you sure? ... Yes ... When the trailer was purchased the retail price was \$6,000 and the chap that put the finance through ... He put it down on paper as \$7,800 with \$1,800 deposit which I did not put in, which is commonly known as jacking up of a hire purchase."

Other examples are documented on files 539/78 and 28/79 in the Office of the Sydney Registrar in Bankruptcy.

The second major cause of bankruptcy is the lack of business skills. Many operators have very little knowledge of how to run a small business, or the economics of running a transport firm <sup>(3)</sup>. This results in poorly kept accounts, failure to allow for certain costs, acceptance of unremunerative rates and backloading problems. The following

---

3. The same problem can be observed in other countries. For instance WYCKOFF (1977) concludes that owner-operators in the U.S. intercity truck transportation industry are relatively unsophisticated managers, and fail to "reserve funds for emergencies, periodic maintenance, and salary and bank payments during periods of low demand."

extract from the transcript of examination on file 71/77 in the Office of the Melbourne Registrar in Bankruptcy illustrates the problem:

"Well just on the trailer, the prime mover alone you appear to have been up to \$1,564 per month by way of instalments? ...Yes. That would have been part of your fixed overheads. It would not have included such things as fuel or road tax? ... That's right yes.  
Do you have any idea what your total monthly overhead was? ...  
No, I wouldn't have any idea. Why is that? ... I just didn't go into it ... But if you didn't go into it you would not know whether you were going to make a profit or a loss? ... You thought that you would make more money with your own trailer? ... Yes. But did you ever weigh up the additional money against the additional costs incurred? ... No."

Another example is provided by the following extract from page 3 of the report of the Sydney Registrar in Bankruptcy on file 1006/79:

"Lease payments were stated to be \$750.00 per month for the prime mover and \$348.00 - \$400.00 per month for the trailer ... The bankrupts stated that no books of account were kept in relation to the business"

Economic conditions are the third major cause of bankruptcies. For the last several years transport operators have been hurt by rapidly escalating costs, low rates and the stagnation of the Australian economy. The following extract from page 6 of the transcript of the public examination by the Registrar in Bankruptcy for the Bankruptcy District of the State of New South Wales on file 242/79 provides an example:

"... I am asking why you got into financial difficulties? ...  
Because the work knocked off. No one was getting money to buy material. You are blaming it on the decline in the economy, are you?  
... That was the start of it. You asked me how I first got into financial difficulties. Work dropped off. Because of decline in economy generally, is that right? ... Yes."

The fourth major cause of bankruptcy is industrial disputes. Several examples can be noted here from files in the Sydney Office of the Registrar in Bankruptcy. The first is an extract from page 18 of the transcript of public examination on file 512/78:

"I understand that the business was also affected by a series of strikes in the abattoirs at Orange? ... That is correct.  
When did that happen? ... That would have been 1977. It went on for a period of months. It wasn't just for days. We had a contract to cart meat, a load every day out of the Orange Abattoir. We would send the truck up and they would ring when the truck was half-way and the next day they would want it and it just went on. The strikes were just astronomical there, as much as three days a week they were on strike up there."

The second example is an extract from pages 7-8 of the transcript of public examination by the Senior Assistant Official Receiver assisting the Sydney Registrar in Bankruptcy on file 539/78:

## ROAD TRANSPORT BANKRUPTCIES

"They did not go on a strike? ... Yes - well, there was industrial trouble, it happens all the time when you are in this transport game. While they were having industrial trouble is it fair to say that you could not carry their products because you could not get them to carry? ... That is true. As a result of that you could not meet the monthly repayments?

... That is true.

And as a result of that the truck was repossessed in December, 1975?

... That is true."

### TYPE OF OPERATION

Information on the type of operation where bankruptcy occurred was not recorded on many files. For example, an analysis of 59 files in the Office of the Melbourne Registrar in Bankruptcy for 1977-78, showed that 19 covered bankruptcies in interstate operations, 20 covered bankruptcies in local operations, whilst 20 gave no information on the type of driving undertaken by the bankrupts. Similarly, an analysis of 97 files in the Office of the Sydney Registrar in Bankruptcy for 1978-79 and 1979-80, showed that 27 covered bankruptcies in interstate operations, 5 covered bankruptcies in intrastate operations, 20 covered bankruptcies in local operations, whilst 45 gave no information on the type of driving undertaken by the bankrupts. Consequently, it was not possible to form any firm conclusions as to the relative importance of bankruptcies in interstate operations.

### AGE AND MARITAL STATUS

Details of age and marital status were checked on 206 files. These showed that 93.2 percent of drivers were married and that their average age was 36.2 years.

### COMPETITION FROM RAILWAYS

Recently owner-operators have called for elimination of government subsidies to the railways on the grounds that the subsidies are allowing the railways to carry freight below cost. However, none of the 354 files analysed contained any reference to "unfair" competition from the railways. Bankrupt drivers tend to be questioned in some detail during public examinations, but no case was found where a driver attributed his bankruptcy in any way to competition from the railways.

### POLICY IMPLICATIONS

There are a number of bankruptcies among drivers in the road freight industry each year, although these appear to be no more frequent than the number of bankruptcies in other competitive industries (ROSENGREN AND WEBB, 1980). Nevertheless, they create very significant financial and psychological costs for particular individuals and their families, and efforts should be made to find cost-effective ways of reducing these costs.

In view of the role played by liquidity problems and lack of business skills, the first and perhaps the most important answer to the problem of bankruptcy in the road transport industry would be to provide better information to potential entrants (particularly on the

risk factors involved and working capital required) and to give business advice to people already in the industry. In the case of potential entrants, motor vehicle registry offices should consider the provision of a booklet outlining the financial resources and business skills required, and the risk of bankruptcy in the trucking industry. Such a booklet could be prepared in conjunction with the Registrars in Bankruptcy, who could draw on the reports prepared by the Official Receivers, and the results of the public examinations of bankrupt drivers (4).

It also would be helpful if finance companies could investigate the financial standing of potential entrants more thoroughly, and could abandon the practice of financing trucks on false deposits. Turning to persons already engaged in trucking operations, the flow of information could be improved through the provision of seminars designed especially for the owner-operator. Such seminars could contain a mini-course on how to operate a small business, how to calculate running costs, how to charge for empty back loading, how to avoid common pitfalls or unscrupulous practices in the industry, etc.

The seminars could be funded in a variety of ways (eg. by fines from traffic violations, contributions from Commonwealth and State Governments, or contributions from the major freight forwarders), and could be held at centres throughout Australia. The seminars should be open to wives of owner-operators, as wives frequently keep all the books and frequently form partnerships with their husbands.

The seminars could be held on holiday weekends or during evenings. It is interesting to note that a Melbourne based organisation called TRANS-LINK has introduced a four week evening course for owner-drivers, which covers such topics as choosing the right vehicle, setting a price, cost estimation, profit planning, and the responsibilities of the owner-driver. The Independent Truckers Association also has proposed the establishment of a short course for truck owner-operators at the Hawkesbury Agriculture College. A working committee has been established to develop the proposal. At this stage the subjects proposed include basic recording, basic accounting, sources of finance and legalities of finance, tax and company law, roles of associations and unions, and communication. These two developments are to be welcomed as it would be in the interests of both individuals and the community if "new entrants to the industry were aware of the methods of monitoring costs, aware of the dangers of being under capitalised and had a chance of survival....." (HILLARY, p.74)

A second answer would be to organise owner-operators more effectively. In 1979 Sir David Hay was commissioned by the Commonwealth Minister for Transport to investigate methods of obtaining representation for long distance owner-operators. He concluded that a council of owner-operator organisations should be formed to negotiate with the government and prime contractors on matters concerning contract conditions and the state of the industry. However, as the organisations do not have enough common ground to make the council an effective voice for owner-operators, a more effective solution might be to nominate one body as the sole

4. In the longer term, appropriate programmes should be developed within secondary schools on the economics of small businesses. Once again, it would seem that the Registrars in Bankruptcy could provide a valuable input for Education Departments.

## ROAD TRANSPORT BANKRUPTCIES

representative of owner-operators. That body could be either the Australian Road Transport Federation (A.R.T.F.) or the Professional Transport Drivers Association (P.T.D.A.). Neither organisation has the power to enforce contracts. However, if either the A.R.T.F. or the P.T.D.A. affiliated with the Transport Workers Union (TWU), it could obtain TWU legal aid and support in industrial disputes. (A similar arrangement is currently in effect between the TWU and the Concrete Carters Association). With its power to call out company drivers and dock workers, the TWU would pose a credible threat to firms wishing to evade contract conditions made with either the ARTF or the PTDA.

This might help to overcome a number of problems which were noted in the analysis of bankruptcy files, such as drivers being forced to overload vehicles, to drive between Melbourne and Sydney without rest, and to accept rates below cost. The following extract from page 4 of the report by the senior Assistant Receiver for the Bankruptcy District of the State of New South Wales on file 889/78 provides an example:

"With his cash the bankrupt purchased a 1971 Ford Truck for a price of \$4,500. He began sub-contracting with ... doing mostly local work in the first few months, At a later stage the bankrupt also completed interstate contracts. The bankrupt stated that the business was never successful. He claims that the cartage rates offered by the contractor were far too low. He could barely manage to cover operating costs."

A third answer might be to encourage new entrants to the trucking industry to establish co-operatives. Such co-operatives might be able to lower costs through discounts on the bulk purchase of oil, tyres etc.

A fourth answer would be to reduce the number and severity of industrial disputes in the Australian economy, perhaps through greater emphasis on dispute avoidance techniques.

### CONCLUSION

The type of person who is most likely to go bankrupt in the road freight industry is a married man of 36, with little or no capital, and little or no knowledge of how to run a small business. From the analysis of bankruptcy files in the Offices of the Melbourne and Sydney Registrars in Bankruptcy, it appears that the chief cause of bankruptcy among individuals and partnerships is lack of working capital, followed by lack of business skills. This suggests that steps should be taken (perhaps by the Registrars in Bankruptcy in conjunction with the Registrars of Motor Vehicles) to provide more information to potential entrants on the risks involved in the trucking industry, the capital and managerial skills required, and training courses available.

ACKNOWLEDGEMENTS

The assistance rendered by the Inspector - General in Bankruptcy and his staff is gratefully acknowledged. The study was funded by a grant from the Economic and Financial Research Fund of the Reserve Bank of Australia.

REFERENCES

HILLARY, D. (1980). "Industry Licensing. We can Learn from Other Countries," Truck and Bus Transportation, Vol.44, No.6, pp. 73-4

ROSENGREN, E., and WEBB G. (1980). "Financial Instability in the Road Freight Industry," National Bank Monthly Summary, forthcoming.

WYCKOFF, D.D. (1977). "The U.S. Owner - Operator Trucker: A Transportation Policy Based on Personal Bankruptcy." In VISSER, E.J. (ed.). Transport Decisions in an Age of Uncertainty. Proceedings of the Third World Conference on Transport Research, Rotterdam, 26-28 April, 1977, MARTIN US NIJHOFF, The Hague.