

Senator CASH: Thank you, Chair.

Ms Anderson: Senator, as per where I was going with the previous response, we have provided \$7.9 million over the forward estimates to the Fair Work Commission to support small businesses in the event that they do wish to engage with bargaining. I would note that, in relation to the single-interest stream, employers with fewer than 15 employees are exempt from that particular stream. In respect of small businesses generally, they are able to bargain under the current framework. So, if employees choose to bargain under the current framework, there may be costs associated in terms of time spent negotiating with their workforce. And, in terms of the costs, they are an estimate per employer.

Senator CASH: So, what you're saying is they could be higher?

Ms Anderson: They could be—they could be a lot lower—

Senator CASH: They could be higher.

Ms Anderson: When an employer chooses to use the cooperative stream, for example, that's designed to bring a number of employers—particularly, say, small businesses—together, for the very reasons that you're outlining. If a number of small businesses come together, that cost would reduce significantly in terms of their ability to bargain.

Senator CASH: Thank you. We've only got limited time. You mentioned 15 employees and under. Can I just ask: how many small businesses are there with between 20 and 199 employees? They will be affected, potentially.

CHAIR: Senator Cash, Ms Sheehan also—

Ms Sheehan: While one of my colleagues is finding that information, I might just draw your attention to footnote 71 of the RIS, which does indicate that those costs are estimates only. Many employers may be members of employer organisations, which would reduce their costs if the employer organisation is assisting in bargaining. Of course, many businesses already involved in bargaining are incurring those costs as a usual course of business, as it is right now. So I think they're relevant factors in looking at costs of participating in bargaining.

Senator CASH: So, Chair, given our limited time, if we could then jump to the assumptions that have been built into the costs, which you admit could be higher, let's talk about the estimated cost of the consultant—the consultant that the department has, I might say, dreamed up, but that would probably be unfair—being \$175 per hour. How did the department come up with this figure?

Ms Anderson: Senator, bear with me for a moment. In terms of regulatory impact statements, the figures that we're required to use are often drawn from average uses of either consultants or hours—what an average hour might cost. So those figures are usually standard costs.

Senator CASH: Were quotes obtained from specialist bargaining consultants?

Ms Anderson: I'd have to take that on notice.

Senator CASH: Okay. Then let's jump to this. Is it true that the department actually got this figure from the website—and I'm happy to hand out, share or table the website for the committee—www.authentic.com.au, 'How much should I charge as a consultant'?

Ms Anderson: I'm personally not aware of that website. I'd have to take that on notice.

Senator CASH: It is referred to in your regulatory impact statement. So which member of the department googled 'how much should I charge as a consultant'?

Ms Anderson: I'd have to take that on notice.

Senator CASH: It's in your regulatory impact statement. You don't know whether or not you've actually gone out and asked bargaining consultants what their estimated cost per hour is. Therefore, how can you be sure that the cost to small business is only \$14,368—because we're about to get onto the other assumptions that the department has made, which is that approximately, and I quote, 15.2 employers will actually bargain together for an agreement? Is that also set out in the regulatory impact statement? They'll bargain together under the one multi-employer agreement and—this is the interesting bit, because I haven't spoken to any small businesses or medium businesses who have said they'll do this, and I think Senator Hanson may have some questions in relation to this as well—they will all pool their money and hire one or two consultants to represent them during negotiations, which I personally find fascinating, given the department couldn't tell us what a 'common interest' was.

So let's work on the basis that you have the 15.2 employers bargaining together. Let's work on the basis that they've been compelled to bargain together. Let's work on the basis that, because they have a common interest, they are actually competitors. I really need to understand under what scenario the department dreamt up that they

Even when unions had 60 per cent density in Australia, there was not unionisation of small businesses, and there was no history of industrial action in relation to small businesses. That is a long way from where we are today, and this bill will not change that.

So with regard to the fact that small businesses have not been unionised in the past—not when the density of unionisation was 60 per cent and not now—do you see any provisions whatsoever in this bill that will change that?

Ms Sheehan: The unionisation of small businesses?

Senator GROGAN: Yes.

Ms Sheehan: I know that the bill itself would not change that. In terms of the impact on small business generally, small businesses at the moment could agree to bargain under single-enterprise agreements. That's something that remains the same. As we've discussed, in terms of entry into the single-interest stream, there is an exemption for small businesses, using the current definition in the act, from entry into that stream. In terms of the impact of industrial action, the bill actually introduces additional steps before industrial action could be taken—for example, longer notice periods for industrial action in a multi-employer stream and conciliation that would need to occur first.

Ms Anderson: I want to note also, and we mentioned earlier as well, the point that the Fair Work Commission will also be getting that \$7.9 million over the forward estimates to give that additional support to small business where they wish to be engaged. So that provides an avenue to work directly with the Fair Work Commission to get the benefits of bargaining.

Senator CASH: I have some follow-up questions. If I could just return briefly to page 51 of the regulatory impact statement, in relation to the costings for the professional service fee:

For this costing we have used an estimate that two employers will lead the negotiations for a multi-enterprise agreement and factored in a professional services fee of \$175 per hour.

Then you've got a number of scenarios:

\$175 x 4.6 x 31 days (small business) x 2—

I put to you that it would be a lot more than two—

= \$49,910

It then goes through medium, which is \$273,700, and large, which is \$322,000.

There is a footnote, No. 70—which, as I referred to previously, is, 'How much should I charge as a consultant in Australia?' from authentic.com.au—where you've come up with this service fee of \$175. In terms of the author of this particular website, I want to read out to you what's on the website in his biography and then get your guidance in terms of what actual industrial relations and bargaining expertise he has. It says on his website:

A cross between business strategist, modern day spiritual healer, and self-development expert, Benjamin J Harvey is as comfortable working with Shamans to Strategists, Psychics to Sales Reps, Healers to Home Makers, Buddhists to Businessmen and Meditators to Mediators.

Again, can I ask the department: what industrial relations and bargaining expertise does Benjamin Harvey have?

Ms Anderson: The point of the costing there is that it replicates a cost of a consultant generally. I will make the point, though, in relation to small businesses that, again, they are exempt from the single-interest stream.

Senator CASH: So you think that 'a cross between business strategist, modern-day spiritual healer, self-development expert, comfortable working with shamans to strategists, psychics to sales reps, healers to homemakers, Buddhists to businessmen and meditators to mediators' is sufficient to actually get you to \$175 per hour? Anyone can google this website. I suggest you do, to actually see how they get to \$175. Which in this category of persons that he is comfortable working with have expertise in the Fair Work Act?

Ms Anderson: I'll repeat my previous evidence that the \$175 represents an average consultancy figure.

Senator CASH: Based on this particular biography?

Senator O'SULLIVAN: If it wasn't so serious, it would be funny.

Senator CASH: Correct. Can I go back to the issue with small business. As Senator Hanson well knows, as someone who for many, many, many years ran a small business, this would appear to be where a lot of the confusion lies. Anyone who runs a small business knows that a 15 or less headcount is, quite frankly, irrelevant. You've also said, though, in terms of Senator Grogan's question, that the bill would not actually change the impact on the situation for small businesses in this country. For businesses, say, between 19 and 199, of which there are around 86,000 in this country—I personally would argue many are small businesses—my understanding is that