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Senate Education and Employment Legislation Committee
PO Box 6100 Parliament House
Canberra ACT 2600



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Dear Committee Members

Fair Work Amendment Bill 2024

The Chamber of Commerce and Industry of Western Australia (CCIWA) is the peak body advancing trade and commerce in Western Australia. Our members are of all sizes and come from all industries and regions, from small early childhood education and care providers in regional towns, to medium sized manufacturers in the Perth metropolitan area. We are fundamentally committed to using our insights to develop and advocate for public policies that will help realise our vision to make WA the best place to live and do business.

The industrial relations legislation that has been pushed through Federal Parliament by Minister Burke and the Albanese Government over the past 18 months has created seismic change and left workplaces with significant concerns. This is at a time when the business community is already grappling with soaring costs and excessive regulatory and compliance burden. There is now a clear and evident risk that these unnecessary and unreasonable changes place Australian businesses at further competitive disadvantage to their international counterparts. Among those most at risk are the smaller and family-sized businesses, who do not possess the resources required to navigate the additional red-tape and legal minefield that these changes now create.

One of the changes that businesses now need to navigate relates to the right to disconnect provision. At the eleventh-hour, the Government supported the introduction of the Australian Greens' "right to disconnect" policy into Australian law. The rushed introduction of this provision, in conjunction with intractable bargaining, without proper consultation with industry stakeholders, reflects a concerning lack of understanding and appreciation of the realities of modern workplaces. It too resulted in a significant mistake that would see employers potentially face criminal penalties for breaching a relevant order. While it was critical the Government remedied this potentially catastrophic flaw, we remain fundamentally opposed to this provision in its entirety.

Given the rushed process, we support the Bill's referral to the Senate Education and Employment Legislation Committee, and the opportunity to provide comment.

"Right to Disconnect": An unjust overreach into modern workplaces

New section 333M of the Fair Work Act 2009 gives employees the ability to refuse to monitor, read or respond to contact or attempted contact from their employer or a third party unless the refusal is unreasonable. While purportedly intended to protect employees from invasion of personal time and ensure a healthy work-life balance, the reality is that it introduces ambiguity and potential conflict into employer-employee relationships.

With respect to the Opposition's amendments on sheet 2415, CCIWA supports repealing the right to disconnect provision in its entirety for several reasons.

Firstly, it is redundant and unnecessary. The existing legal framework already provides adequate protections for employees against unreasonable work hours. Modern workplaces have evolved to embrace flexibility and adaptability, with many employees already enjoying the freedom to negotiate flexible working agreements with their employers.

The implications of the "right to disconnect" provisions are also significant and detrimental to business. Small and family businesses are facing significant challenges in navigating the already complex regulatory environment created by all the recent changes to industrial relations law. The imposition of additional compliance complexity takes businesses away from what they do best, thereby stifling innovation and growth across the economy.

Furthermore, the ambiguous criteria for determining the reasonableness of after-hours communication poses a significant challenge for businesses. Without clear guidelines, employers are left to navigate a murky legal landscape, risking inadvertent non-compliance and legal disputes. This ambiguity creates uncertainty and apprehension among employers, hindering their ability to effectively manage their workforce and operations.

Closing remarks

The additional section 333M of the Fair Work Act 2009 represents a troubling trend towards increased government intervention into modern workplaces, without proper public scrutiny. As such, we support the Coalition's proposed amendment to repeal these laws in their entirety, as they represent an unjustified intrusion into the affairs of businesses and undermines the principles of freedom and flexibility in the workplace.

On a final note, we also call for greater transparency and consultation in the legislative process, ensuring that the voices of all stakeholders, including business owners and industry representatives, are given due and adequate consideration. To this end, it is essential to strike a balance between protecting the rights of workers and fostering a conducive environment for business growth and innovation.

Sincerely,

Chris Rodwell
Chief Executive Officer