

19 December 2008



Mr John Carter
Committee Secretary
Senate Education, Employment and Workplace Relations Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
By Email: eeWER.sen@aph.gov.au

Dear Sir/Madam

Re: Senate Inquiry into Fair Work Bill

Against the backdrop of the Workchoices legislation introduced by the Howard Government, without doubt the most anti-worker, anti-union industrial laws modern Australia has seen, the new Fair Work Bill represents a substantial improvement in various ways.

However, the CFMEU is of the view that the Fair Work Bill falls short of both Australia's ILO obligations in some key respects and also falls short of the pre-election commitments of the ALP in the Forward with Fairness package.

Key areas of change that the CFMEU believes are required include:

1. Amendments to permit collective bargaining to take place between parties about the content of agreements of their choosing without extraneous restrictions.
2. Restrictions on the level at which bargaining can take place between parties (e.g. limitations on pattern bargaining) should be removed.
3. The provisions including penalties for unprotected industrial action are largely a replica of Workchoices and should be should be substantially amended (e.g. dropping of 4 hour mandatory deduction, introduction of 72 hour cooling off before litigation, etc).
4. The highly restrictive regime covering union right of entry to workplaces should be amended in various ways (e.g. removable of compulsory 24 hour notice provision).
5. The legislation should contain an appropriate provision for last resort arbitration when bargaining is exhausted between bargaining parties and no prospect of a settlement between parties is foreseeable.
6. The legislation should, working in tandem with the Independent Contractors Act, provide a strong scheme for dealing with harsh and unconscionable contracts (whether the worker is

strictly under a 'contract for services' or a 'contract of service') in similar fashion to the s. 106 provision in the NSW Industrial Relations Act.

7. Strengthening of the award modernisation objective to ensure that the process does not result in any reduction in rates or conditions of employment for employees.

The CFMEU would wish to appear before the Committee to advance arguments and evidence in support of the propositions outlined above.

We would also seek to reserve the right to advance other more specific or technical amendments that may come from our Divisions and Branches upon closer inspection of this substantial new Bill.

Questions or other matters pertaining to this submission should, during January, be directed to my personal assistant, Elisa Fernandes (02 8524 5820).

Yours faithfully

A handwritten signature in black ink, appearing to read 'J. Sutton', written in a cursive style.

John Sutton
National Secretary
CFMEU