



15 April, 2013

Committee Secretary
Senate Education, Employment and Workplace Relations Committees
PO Box 6100
Parliament House
Canberra ACT 2600

Email: eewr.sen@aph.gov.au

Dear Secretary,

Re: [Inquiry into the Fair Work Amendment Bill 2013.](#)

The "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU) welcomes the opportunity to comment on the Fair Work Amendment Bill 2013 ("the Bill").

The AMWU welcomes the Bill, as a second tranche of reform to the Fair Work Act 2009 following the Inquiry conducted by the Fair Work Act Review Panel ("the Panel"), and the Report of the House of Representatives Standing Committee on Education and Employment: "Workplace Bullying: We just want it to stop" in 2012.

In so doing, we support and endorse the submission of the ACTU to this Committee.

We do wish to note that it remains clear that the job of reform is still not done by this Bill. Another opportunity has been missed to address the inequity of access for employees to arbitration of intractable and prolonged bargaining disputes.

Compared with the industrial havoc caused by the likes of Qantas to force arbitration in circumstances that suited it, employees like those at Cochlear must continue on an unending superficial process of bargaining meetings where an employer does not actually want to reach agreement.

Majority support determinations were incorporated into the Act from commencement, in order that where a majority of workers want a collective agreement, the *Fair Work Act* would allow them to achieve a collective agreement. However, as time has gone on, the Act has permitted uninterested employers to simply surface bargain with no intention of reaching agreement, frustrating the capacity to be covered by a collective agreement that should be the right to every employee.

After years of fruitless effort under WorkChoices, Cochlear workers received a majority support determination in August 2009. After more than three and a half years of bargaining under this Act, including numerous proceedings in FWA and a seven month-long case to seek bargaining orders, Cochlear management still says no to reaching a negotiated agreement. The Act allows Cochlear to say no. The time to address this failure is now.

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The AMWU does, however, welcome the sensible reforms to the Right of entry provisions of the Act, so that an employee's right to access their union representatives during their lunchbreak, and in remote workplaces, is not frustrated.

Until now, these rights have in practice been undermined by some employers, and we referred to some examples in our submission to the Panel:

- an employer providing access to only one room across a site 3 km long, where employees have a 20-minute break;
- an employer providing access to half of a manager's office, divided by a partition, where the manager sits on the other side;
- an employer providing access to a meeting room in an administration area that accommodates six employees where two lunchrooms are available, accommodating around 100 and around 30 employees respectively;
- an employer providing access to a training room seating only 30 people for a workplace of 250 employees with six work areas and various shift and break arrangements;
- an employer requiring three unions entering to address common issues to be located in separate rooms, despite many of the employees being jointly covered by the unions.

This Bill will provide employees with the ability to resist such frustration of their rights.

The AMWU commends the Bill to the Committee.

Yours sincerely

ANDREW DETTMER
ACTING NATIONAL SECRETARY