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Tuesday, 27 September 2016

The Committee Secretary
Senate Education and Employment Committees
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email: eec.sen@aph.gov.au

Dear Secretary,

Re: Inquiry into the provisions of the *Fair Work (Registered Organisations) Amendment Bill 2014*

The ASU calls for the *Fair Work (Registered Organisations) Amendment Bill 2014* to be rejected and supports the ACTU current and past submissions to this Inquiry in this regard.

As a result of FW (RO) ('Shorten') amendments made in 2012 Union governance and transparency has improved so as trade unions and indeed all registered organisations have become the most scrutinised public organisations in the country.

There has been no proper assessment or review of the relative success or otherwise of the 2012 amendments. Recent Fair Work Commission Regulatory Compliance ('FWC RCB') reports indicate higher levels of compliance by all registered organisations. The ACTU has referred to the published statistics that speak for themselves.

The proposed Bill is in the ASU's view fundamentally flawed and based on false assumptions by the Federal Government as follows:

- That alleged criminal behaviour by registered organisation officials, as reported by the FWC RCB or otherwise, cannot be properly investigated and prosecuted by the Australian Federal Police under current laws - recent well documented prosecution of criminal union activity suggest otherwise.
- That the FWC RCB, with recent procedural changes increasing scrutiny on trade unions in particular, is not adequately set up to regulate registered organisations – recent compliance reports suggest otherwise.
- Increasingly treating registered organisations as Corporations to be similarly regulated as organisations covered by the *Corporations Act 2001 (Cth)* - this rejects the whole Industrial Relations system of representative industrial organisations accountable to members rather than shareholders and commercial interests.

At the same time there has been an increase in systemic abuse of employment practises by employers such as franchise models that are deliberately designed to circumvent Australian workplace laws and rely on threats and intimidation of overseas workers. Establishing a Registered Organisations Commission as a new Union 'Watch Dog' will not make any difference whatsoever to the increasing number of illegal and sham employment practises across the country.

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Establishing a new union regulator in response to the Heydon Royal Commission is in the ASU's view politically motivated and there is concern that such a regulator will at worst deliberately and directly interfere with the legitimate conduct of trade unions and at best hamper the increasingly efficient democratic processes of trade unions.

This comes at a time when Australian workers feel less connected to the political process than ever before. At least in the workplace there is some opportunity to balance the interests between those who own capital and those who provide the labour whatever the advances in new technology.

The ASU like other trade unions has endeavoured to continually improve on its administrative and governance rules and adopt policies that promote best practice union governance. The ASU has continually reviewed financial management/accountability policies and moved to adopt policies and vary financial management rules concerning financial decision making nationally and by default at branch level. In particular this includes credit card usage and authorisation of union payments. Every branch of the ASU has appointed compliance staff that meet regularly to ensure all reporting and disclosure obligations are met at all levels of the union.

Further unnecessary regulation will discourage individuals from holding union office particular those elected on an honorary basis and the many volunteers who believe workers should always have a strong collective voice. The aim of any heavy handed regulation will be to silence this voice so as trade unions become no more than community bystanders rather than at the forefront of setting minimum working conditions and universally accepted social reform such as Medicare and compulsory superannuation to name a few.

Public funds should instead be allocated towards the investigation and prosecution of illegal and sham employment arrangements which have been uncovered by the Fair Work Ombudsman but too often not adequately dealt with because of the lack of legal resources. The Australian public have already indicated that they are more concerned with addressing the excesses emanating from board rooms across the country and overseas than whether a union has accidentally missed a reporting requirement.

Further the ASU calls for public funds to instead be directed towards the establishment of a national anti-corruption commission to shine the same spotlight and level of scrutiny that has been applied to trade unions, through the Heydon Royal Commission, to all sectors of the community.

The Australian public has for some time been dissatisfied with the lack of accountability and transparency with Banks, Financial Institutions, power companies, property developers, private training providers, health funds and indeed politicians and political parties. Wasting public funds on yet another trade union regulatory agency will not make Australia and Australian workplaces any fairer and should be rejected.

Yours faithfully

David Smith
NATIONAL SECRETARY

cc [Dave Oliver – ACTU Secretary](#)
[ASU Compliance Officers](#)