



27 February 2014

51 Walker Street,
North Sydney NSW 2060
Australia

ABN 76 369 958 788

Tel: 02 9466 5566
Fax: 02 9466 5599

The Committee Secretary
Senate Standing References Committee
on Education and Employment

Email: eec.sen@aph.gov.au

Dear Committee Secretary

Re: Inquiry into the Provisions of the *Fair Work (Registered Organisations) Amendment Bill 2013*

We are writing to address the following Question on Notice raised by Senator Lines at the public hearing on 6 February 2014 relating to the above Bill.

CHAIR: Just before you go, Mr Smith, I would like you to take something on notice. There was a dissenting from the last inquiry. Could you advise us of what AiG agrees with and supports in that report?

Ai Group has considered the content of the Dissenting Report and generally agrees with the following statements:

“1.7 The bill aims to regulate unions in a similar way to which Australian Corporations are currently regulated. Corporate regulation directed toward the protection of the economic interests of investors and creditors (and, to an extent, consumers), serves an entirely different purpose than the protection of the interests of union members. Trusts, Charities and so on are regulated differently to Corporations, and the regulation that Corporations are subject to differs depending on their size, structure and other factors (such as whether they are publicly listed). Unions should similarly be regulated in a manner that recognises their nature and purpose.

1.8 Unlike corporations, many rank and file members of trade unions are elected as delegates to governing bodies. These members are not full-time salaried leadership of unions, but everyday members who undertake other roles in the community and the industry, and volunteer their time to their union. The Committee should be cognisant of the fact that the burden of this regulation falls not just on the management of the union, but these rank and file members....

1.9

Senator CAMERON: I want you to expand on the argument about why you should not align the registered organisations accountability with that of the Corporations Act.

Mr Smith: There are two aspects that we are concerned about—the regulatory burden for the organisation and the fairness of the regime for the officers, who in our case are all volunteers. The registered organisation disclosure regime is all about ensuring that the directors on a board disclose their interests to other directors on that small board so that they can exclude themselves from decision making. We have no difficulties with those processes but to publish interests on a public website we think is far beyond the corporations law provisions. We think there are differences but this legislation cannot be looked at as just an implementation of the corporations law provisions, because it is far more onerous than that.

1.10 The bill also shares similarity to the Fair Work (Registered Organisations) Amendment (Towards Transparency) Bill 2012 advanced in the 43rd Parliament on behalf of Senator Abetz. In its submission to a Senate Committee Inquiry concerning that Bill, the Department of Education, Employment and Workplace Relations said:

The policy rationale underpinning the amendments in the Bill is that registered organisations should be regulated in the same manner as corporations. This fails to recognise the differences between registered organisations and corporations.

While there are some similarities, registered organisations are not, for the most part, comparable to corporations. Corporations are designed to generate wealth and protect the financial interests of shareholders. In contrast, registered organisations are established to represent their members in the industrial relation system with special rights under the [Fair Work] Act, including in relation to collective bargaining and right of entry, and are an important element in ensuring the right to freedom of association.

Further, the officers of registered organisations are often individuals who do not perform the role on a full time basis or for remuneration; as opposed to directors of corporations who in most cases are remunerated for their work.

The Department believes that while the key concepts, principles and structures of corporate governance overlap with and provide a useful starting point for regulating registered organisations, rules that account for the unique constitution of registered organisations, including their central purpose and the context in which they operate, is required.”

Yours sincerely

Stephen Smith
DIRECTOR – NATIONAL WORKPLACE RELATIONS