

09/12/2019

Senate Standing Committees on Economics
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Parliament House
Canberra ACT 2600

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Dear Hon. Committee on Economics

RE: Unlawful underpayment of employees remuneration non pecuniary side model applied to rogue blue collar recruitment operators

I otherwise thank the Senate committee with respect to the opportunity to provide the following submission.

Scope of Submission

In brief my intention in the drawing of this submission is largely to submit a soft regulatory proposal for further examination by the hon. committee married against the terms of reference, whilst it is not my intention to make further comment on proposed pecuniary measures, I do say I wholly endorse the proposals enunciated in Maurice and Blackburn's comprehensive submission filed.

Sector Specific Matters

In the interest of disclosure I do retain employment experience at grass roots level across several high risk sectors within the blue collar sphere secondly held direct and indirect dealings with a wide range of recruitment companies for the purposes of this submission I will draw on my experience within the Restoration Services sector whilst the below is not a exhaustive list of duties should still serve as a relevant case example for the purposes of this inquiry.

So as to provide a overview of the three main categories within the Restoration Services sector currently subject to the Cleaning Services Award 2010 the roles duties can be broken into three main areas namely;

- a. Fire mitigation
 - b. Water mitigation
 - c. Bio hazard mitigation
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- a. Fire mitigation services the generally involves making safe at first instance extensively fire damaged premises effectively providing the capacity for further sub contractors to enter the said premises and conduct remediation works thereafter
 - b. Water mitigation activates including however not limited to removal of category 3 storm water again at first instance generally after a extreme weather event with respect to both commercial and residential
 - c. Bio Hazard duties including but not limited to constructing purpose built framework subsequently contained with commercial grade building plastic within a affected area in a premises to perform works on internal structures that may be subject to mould damage, the duties involve in most cases removal affected premises walls and ceilings followed by the use of a angle grinder to sand down internal bearers and studs which have sustained mould damage.

Wage theft and Casual Connection to Labour Hire Operators

The sector specific example above whilst a essential service clearly involves high risk of serious injury granted this sector should not be taken as isolated in so far as the vast spectrum of high risk sectors in the blue collar space

It is reasonable to appreciate the business sense and attraction towards engaging recruitment services to mitigate high employee turnover, higher instances of injury exposure and significant risk of liability or short term contract based employment roles including however not limited to employers, workers compensation authorities, and numerous financial benefits.

In the main and with respect to the above I do not take issue with the above moreover the function may very well avoid stymie growth secondly to contain liabilities and cater for finite contract labour requirements as they arise.

With respect to ethical blue collar recruitment companies whom do currently operate within the sector I take no issue with, furthermore reiterate my support for the betterment to the wider business community.

However the above view does not apply in the case of rogue labour hire operators and their use of the now well publicised intentional abuse of process mechanisms, including but not limited to strategic insolvency tactics to avoid liability including illegal phoenix activity forming the very core of their business model

In addition to the above mechanisms the said rogue operators including but not limited to award allowance manipulation strategies, strategic payslip misinformation and the use of intentionally crafted work choices era contracts of employments.

The above conduct is designed by its very nature to afford the bare minimum protections to relevant directors shadow to operate outside of strict liability territory moreover as a result of unintended statutory prosecution delays effectively provides for the time to squander profits through the use of underhanded financial shielding strategies intentionally built in to the model given the lack of realistic deterrence measures currently in place moreover absence of strict liability offences.

Proposed Outline of Labour Hire “Bottom Up” Model against the Terms of Reference

In outlining my proposal against the terms of reference I would also like to focus on frustrating the rogue operators model by targeting the operators bottom line, to do this I have drawn parallels to the legal sectors regulatory framework, which may have in part been already touched on in previous submissions and to this end propose the following model in its basic form be for the consideration of the committee as follows;

1. Mandatory standardised contracts of employment set by the LHA which clearly indicate in a user friendly manner with relevant allowance tables and pay guides in a simple and clear format
2. Standardised and mandated sector wide payslip precedents
3. A compulsory statutory liability fund contribution imposed on all blue collar operators in favour if the relevant statutory authority tasked with its administration the particulars of which to be examined by the senate committee
 - a. A 4 tiered categorisation system against all operators entering into the market and existing effectively beginning at level 1 to level 4 over a 12 month period respectively graded and audited by the LHA quarterly the parameters of the grading criteria to be examined by the this senate inquiry with particular emphasise of OH&S and wage theft protections

- b. Worker compensations levies and subsequent reductions afforded to top level 4 graded operators
- c. In the case of non federal contacts company credit rating incentives for companies engaging with tier 4 operators
- d. Favourable taxation subsidies afforded to federal procurement tenderers that contract with category 4 labour hire operators.
- e. Mandated wage dispute resolution mechanisms via the LHA

Conclusion

It is my contention that the above model may eradicate to a large degree the rouge operators business model and community wide economic benefit significantly outweighing economic losses save to the extent to which subject to financial economical examination, which in turn ultimately benefits the broader communities interests notwithstanding Federal and State authorities and interested stakeholders alike.

Kind Regards

Mark Stephen Tomisich