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13 December 2018

Committee Secretary
Senate Legal and Constitutional Affairs Committee
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Parliament House
Canberra ACT 2600

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Dear Senators

Inquiry into the Effectiveness of the Current Temporary Skilled Visa System in Targeting Genuine Skills Shortages

Cochlear welcomes the opportunity to contribute to the above inquiry.

Cochlear is the global leader in implantable hearing solutions including cochlear, bone conduction and acoustic implants. We have now sold over 550,000 implants helping a growing number of people of all ages across more than 100 countries hear and be heard.

We are a proudly Australian, globally successful company. Headquartered at Macquarie University in Sydney we undertake most of our research and development (R&D) and manufacturing in Australia, mainly at our Macquarie University campus but also at Lane Cove, East Melbourne and in Brisbane. Around 1,600 (approx. 45%) of Cochlear's employees are based in Australia with the majority working in manufacturing, logistics and R&D.

As the only local manufacturer of implantable hearing technology, with highly specific and unique talent requirements, Cochlear relies on the creation of its own global 'eco-system' to develop and sustain a stable and suitably qualified workforce. It is expensive for Cochlear to recruit foreign nationals and they do not replace our recruitment or training of Australians. However, for many positions, over time, it has been essential to acquire talent from the international labour market.

Submission summary

- Short term skills visas have been critical to building Cochlear's global success and competitiveness,
- Programs like the Global Talent Scheme pilot are welcomed and can be built on to provide greater flexibility for companies with excellent compliance and local talent development records,
- A separate visa class for intra-company transfers should be created,
- The maximum time period between completing labour market testing and visa nomination should be extended from 4 months to 6 or 8 months to reflect practical experience,
- Addressing skills shortages in the medical technology sector requires a long term approach, and
- Strategic and comprehensive reform of Australia's skilled migration regime is necessary to support innovative Australian companies with a global export focus.



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Temporary skilled visas have been critical to Cochlear's global competitiveness

Cochlear employs only a small number of foreign nationals on some kind of working visa. As at November 2018 Cochlear had 21 employees on 457/Temporary Skills Shortage (TSS) visas (down from 28 in June 2017). Of the current visa holders, four are movements by existing Cochlear global employees to the Australian headquarters (down from 14), and 18 have been sourced from the external global labour market (up from 14). These 21 employees are less than 2% of the Australian workforce.

While a relatively small proportion of our workforce these workers often hold roles critical to our Australian operations. Further our ability to use the visa system to address skills gaps has been fundamental to our ability to become – and remain – a globally successful medical devices company operating from an Australian base.

Temporary skills visas have allowed Cochlear to build capability in Australia. For example, over the last 10 years Cochlear used 457 work visa arrangements to overcome insufficient local engineering skills in advanced manufacturing. Cochlear hired engineers and engineering managers on 457 visas to build its Australian manufacturing base. This enabled it to gain capability to the point that manufacturing engineers are now a more stable workforce sourced, wherever possible, from within Australia and Cochlear has significantly increased its Australian manufacturing workforce.

Reputable organisations should be allowed more flexibility in accessing global talent

Cochlear supports greater application of a risk-based approach to migration policy. Visa sponsors with high levels of compliance with regulation, good track records of hiring and developing local talent and a relatively low proportion of its workforce on visas, should be faced with less controls and receive a streamlined visa application and approval process. By contrast, regulation and regulatory enforcement should be more targeted at higher risk businesses.

The Global Talent Scheme (GTS), a 12 month pilot which commenced in July 2018, is a step in this direction. It adapts the existing Labour Agreement approach to give approved businesses faster processing and more flexible concessions. Cochlear entered into a GTS agreement under the established business stream in late July 2018. This agreement enables Cochlear to hire overseas specialists with skills and experience that are specific to the medical devices and hearing implant industries, very difficult if not impossible to find in Australia and are not covered by the current TSS skilled occupation lists.

Cochlear welcomes the GTS pilot and other policy proposals such as Labor's SMART visa that aim to take a more risk based approach and ensure companies like Cochlear can continue to access global talent. However, we believe these schemes could be taken further by giving 'trusted' companies greater capacity and flexibility to hire skilled workers from overseas provided they operate within an approved framework and provided these workers are paid at or above Australian market rates. For example, participating companies could have broader scope to employ people within a broad set of skills, expertise and qualifications rather than having to nominate specific occupations. Cochlear acknowledges the integrity of such a scheme would need to be carefully managed but we believe it would improve businesses ability to adapt to rapid change and increase the employment prospects of Australians in the long term.



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GTS Case Study – Regulatory Affairs Professionals

Under Cochlear’s GTS agreement we will be able to hire regulatory affairs professionals. Regulatory affairs professionals are not currently on the skilled occupation list and never have been. Yet these are highly specialised roles, critical to our business given our technology is sold in over 100 countries and subject to a complex global regulatory environment.

Currently in Australia, there is no comprehensive tertiary education for Regulatory Occupations or Professionals. This is in contrast to USA and European markets where tertiary education in medical device and regulatory studies form degrees qualifications for example Master’s Degrees in Regulatory Affairs. As a result regulatory knowledge acquisition for Australian residents has primarily come through on the job experience working for globally headquartered medical device organisations, most commonly, Cochlear and Resmed.

With the local talent pool in Australia for regulatory skills being restricted, the quality of candidates in the Australian market is very limited and the time frame to fill vacant roles is extensive. Current labour market testing for regulatory roles at Cochlear has an average time to fill of 6 ½ months, and is becoming increasingly longer and more challenging.

A separate visa class should be created for intra-company transfers

Like most global companies Cochlear transfers staff between our overseas offices and our Australian headquarters for short and medium term assignments. These employees may spend valuable time training our local teams and, in some circumstances, may stay in Australia into the longer term.

The importance of a globally mobile workforce in multinational corporations is well recognised internationally and most peer nations offer a specific visa for this purpose. In the United States it is called a ‘L1 Intracompany Transferee Visa’, in the United Kingdom it is called a ‘Tier 2 Intracompany Transfer Visa’.

By contrast, Australia does not treat intra-company transfers as a separate category and this adds unnecessary complexity and opacity to the application process. Cochlear currently is forced to use visas that are not fit for purpose and unduly restrictive.

For example we can use temporary skills shortage visas (subclass 482) but only if our employee’s skill set fits within the occupation lists. Alternatively we can use Temporary Work (Short Stay Specialist) visas (subclass 400) however the three month time frame is too short for most intra-company transfers and also require a skill gap in Australia where in fact we may want to bring over an employee to build their skills for our overseas offices.



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Establishing a separate visa class would align Australia with peer nations and help make Australia a more attractive proposition for global companies.

Current labour market testing arrangements do not reflect realistic timeframes

The new requirement (under *Migration (LIN18/036: Period, manner and evidence of labour market testing) Instrument 2018*) that labour market testing (LMT) must be conducted and completed within four months prior to lodging a nomination for a TSS visa is much too short and does not allow companies to properly and appropriately 'test the market'.

In Cochlear's experience, filling positions with a strong local talent pool requires around 3-4 months to find and acquire talent. The additional complexity, cost and resources that goes into sourcing talent from the global market and then making sure all the documentary and other requirements are in order before lodging an application will frequently take this timeframe well over four months.

Given the purpose of LMT is to test the local market for a skill that can then be acquired from overseas for potentially up to four years if a genuine gap is established, the rationale for the very short time between LMT and lodging a nomination is not clear. Cochlear urges a review of this requirement and recommends the time period be extended to at least six months and ideally eight months to reflect realistic business processes.

Skills shortages in the medical devices industry need to be tackled on a longer term basis

While Cochlear utilises the short term skills visa system and believes it has a critical role to play in the Australian economy, the system is being asked to address longer term skills gaps in the medical devices industry that need to be dealt with in a more strategic way.

A 2015 review of the Australian medical technology industry workforce and skills¹ found:

- 29% skills gap in the product development area;
- 16% skills gap in regulatory affairs; and
- 15% skills gap in the product research area.

While the Review found the overall skills gap in the sector was relatively modest at around 3% it noted this masks the significant gaps in the critical areas above. The Review also found the overall gap was expected to widen to 26% in the next five years.

There are over 500 medical technology companies in Australia, with a combined annual turnover of more than \$10 billion and employing more than 19,000 workers in total². While a significant industry in the Australian context it is dwarfed by the medical technology sectors in the United States and Europe. Given the future global growth potential of the industry, Australia should be doing all it can to capitalise on the existing sector. This includes addressing the skills gap in the key areas identified above.

¹ Medical technology industry workforce and skills review: Addressing the skills gap, Deloitte Access Economics, commissioned by the Medical Technology Association of Australia

² p 5 of the Review



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The Review made several recommendations for addressing these skills gaps in the medium to long term including through school education and increasing the awareness of the med tech industry as a career option. Developing the pipeline of these skills within Australia should be a priority however this is not reflected in current policy and programs. Given the vocational focus on the Skilling Australians Fund it is very unlikely it will help bridge these skills gaps despite med tech companies who use the short term visa system to fill skills gaps being required to make a contribution to the Fund.

To maintain and improve the competitiveness of the Australian med tech sector, acquiring critical skills from the global labour market will be necessary for the foreseeable future. The skilled visa system should aim to fill genuine skills gaps whether short or long term and feed into an integrated education, training and labour market that is able to meet existing and future gaps to the extent feasible.

The economic and social benefits to Australia of skilled migration should be promoted

Cochlear is a global market leader, it has created jobs in Australia, and has been a catalyst for spill-over benefits for many other innovative businesses in the process. One of the reasons we are global leader is that we have been able to access global talent.

However highly desirable skilled migrants have choices and when Government's focus on preventing misuse of the skills visa system and dissuading 'undesirable migrants' this has a negative impact on Australia's attractiveness. It also makes it more difficult for companies to continue maintaining world class operations within Australia.

A strategic and comprehensive reform of Australia's skilled migration regime is necessary to support innovative Australian companies with a global export focus.

Cochlear would be pleased to present to the Committee at a hearing if required. For further information please contact Brooke O'Rourke, Senior Government Affairs Manager

Yours sincerely

Dig Howitt
Chief Executive Officer