

27 July 2011



Mr. Tim Watling
Committee Secretary
Senate Standing Committee on Education,
Employment and Workplace Relations
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

(via email)

Dear Mr. Watling,

Inquiry into Work Health and Safety Bill 2011 and Work Health and Safety (Transitional and Consequential Provisions) Bill 2011

Please accept this letter and attached correspondence as submission to the Inquiry.

At this point, the Commonwealth Work Health and Safety Bill would apply to non-Commonwealth licensees in the finance sector, the two major banks NAB and the Commonwealth Bank of Australia (CBA). Staff employed by the Reserve Bank of Australia also fall under the Commonwealth jurisdiction.

FSU supports the Government's intended transfer of OHS coverage of non-Commonwealth licensees to state and territory jurisdictions.

Notwithstanding the considerable improvements in the Commonwealth Bill when compared to the *Occupational Health and Safety Act 1991*, we believe that workers in the finance sector should be covered by uniform health and safety laws, and that the Commonwealth Bill should cover Commonwealth employees only.

The key reasons for our support for the transfer to state and territory laws are set out in our Submission to the Government on the proposed transfer, sent via the Australian Council of Trade Unions (view attached correspondence).

Our Submission highlighted the lack of consultation which occurred when both NAB and CBA moved to Comcare, and provided supporting evidence by way of correspondence between FSU and the banks. We submitted that there are various limitations to the *Occupational Health and Safety Act* which enabled employers to have minimal consultations with staff.

We support the Submission of ACTU to this Inquiry in relation to the extension of licenses under Comcare and the imperative to seek worker approval.

Recommendations to enhance the Commonwealth Bill:

- In order to overcome some of the gaps in the processes of consultation and communication which have occurred under the current Comcare jurisdiction, we recommend the adoption of

the South Australian model of tripartite consultation to supplement a cohesive system for Commonwealth employees.¹

- The FSU made strong Submissions to Governments to include a right for union prosecution of offences in the model Bill, (as currently exists in NSW). Our views are enforced by the radical change that occurred in bank branches in the early 2000s following the prosecution of three of the four major banks.² FSU submits that the Commonwealth jurisdiction should adopt the provisions included at s.230 of the *Work Health and Safety Act 2011* (NSW).
- FSU Submissions on the Model legislation called for strong regulation and supporting codes of practice around psychosocial hazards. These are the most important emerging hazards to face finance sector workers and FSU will continue to work in conjunction with the ACTU and affiliate unions to ensure that harmonised laws include such regulation. Recent figures from Comcare reinforce the need for stronger regulation, citing a 54% increase in mental stress claims since 2006-07.³

Please view attached extract from the FSU Submission on Model Work Health and Safety Regulations and Codes of Practice- Appendix 1 The Regulation of Psychosocial Hazards at the Workplace.

The Commonwealth Bill includes substantial improvements to the current Commonwealth OHS legislation, and these are mirrored in the state and territory harmonised laws. There are stronger provisions around consultation, communication and cooperation between duty holders, representation, and right of entry for union officials which should contribute to improved health and safety risk management and prevention.

However, FSU strongly supports the premise that the Commonwealth legislation should only apply to Commonwealth employees. The above recommendations would substantially improve the Commonwealth, state and territories' legislation.

Please call Susan Kenna on _____ should you wish to discuss these matters further.

Yours sincerely

Leon Carter
National Secretary

¹ See *Work Health and Safety Bill* (SA), Schedule 2 – Local Tripartite Consultation Arrangements

² In 1998, there were 180 armed robberies in NSW, and in 85% of incidents bank staff were molested or assaulted. By 2007, the number of NSW bank robberies was reduced to just 34. Between 2001 and 2005, there were 5 prosecutions undertaken by FSU in accordance with NSW OHS laws. The Union prosecuted ANZ twice, CBA twice and there was one Westpac prosecution. Each of the banks pleaded guilty, having been formally notified by the FSU of the potential harm they were placing employees in on a series of occasions. One of the most effective of these prosecutions resulted in the instalment of anti-jump barriers via a national re-fit of all ANZ branches, following repeated robberies.

³ *Mental Stress Claims on the Increase*, Media Release, Comcare, 21 July 2011.

