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National Pay Equity Coalition and the Women's Electoral Lobby
Supplementary Submission to House of Representatives Inquiry
into Pay Equity and Associated Issues Related to Increasing Female
Participation in the Workforce

The Women's Electoral Lobby and the National Pay Equity Coalition refer to our Submission to the House of Representatives Committee and make further brief supplementary submission. We also attach our Submission to the Senate Standing Committee on Education Employment and Workplace Relations Inquiry into the Fair Work Bill 2008.

The Australian Industrial Relations System

We remind the Committee that in our Submission we made clear the importance of the industrial relations system, its institutional arrangements and the award system in effecting pay equity. In particular we drew attention to the importance of awards and of test cases and tribunal decisions that influence women's wages and conditions.

Fair Work Australia

Award Modernisation:

The Award Modernisation process is now proceeding in the Australian Industrial Relations Commission.

Recommendation 7 of our Submission calls upon the Australian Industrial Relations Commission to satisfy Section 576B (2) in the Award Modernisation process.

We are concerned that some aspects of this process have had a detrimental impact on awards that set wages and conditions for women workers. We are concerned that award modernization could result in a leveling down rather than provide wages and conditions enjoyed by other workers in the Australian labour force.

We draw the Committee's attention to the new Clerks' Private Sector Award which adopted inferior conditions and entitlements.

Linda White from the ASU in the Senate Education, Employment and Workplace Relations Committee hearing stated that 'as matters stood now, hundreds of thousands of predominantly female employees stood to be significantly disadvantaged'.

We also argued in our Submission to the Committee that in order to satisfy the provisions of Section 576B (2) that the Commission in this process must be mindful and put into effect commitments to equal remuneration.

We suggest that the Award modernisation process has the potential to review and remedy many aspects that exacerbate pay inequality.

We refer to our Submission to the Australian Industrial Relations Commission stating the potential to review the Aged Care Industry Award in a manner that satisfies Section 576B(2).

We submit that this Committee must consider the implications of the award modernisation process and the following award review process in addressing pay equity and equal remuneration. We suggest that a contemporary assessment of work value and classification structures and rates of pay be undertaken. We suggest that awards be measured against current relative agreements in a manner which levels up rather than levels down wages, conditions and entitlements.

Right to Arbitration

In our Submission to the Senate Standing Committee on Education Employment and Workplace Relations Inquiry into the Fair Work Australia Bill 2008 we drew the Senate Committee's attention to a compulsory conciliation and arbitration as being a cornerstone of the Australian industrial relations system and a fundamental right underlying the notion of fairness and equality. This right has been important for women in the fight for equal pay.

Employers have objected to all cases from Equal Pay, Reasonable Hours, Family Leave and Minimum Wage adjustments. We put it simply that relying on consent rather than a right to arbitration would have meant that advances we did achieve in equal pay would never have occurred.

We also pointed out the importance of the awards and test cases in making decisions that affect workers at an industry, occupation and workplace level. Historically the ability of the award system to make decisions across enterprises, industries and employers has contributed to Australia's historically effective means of expanding equal pay decisions.

We ask the Committee to consider the structure and operation of the award system and how Fair Work Australia will operationalise our commitments under ILO Convention 100 on requiring equal remuneration for men and women for work of equal value without sex discrimination, requiring an evaluation of work that is free of sex discrimination.

Award Flexibility Clauses

Modern Awards are required to contain Award Flexibility Clauses. We are concerned that these clauses, if not rigorously overseen, could lead to award evasion and exacerbate gender inequality. We suggest that these clauses be subject to the object of providing for

equal remuneration for the value of the work performed and that they ensure that gender inequality is not perpetuated and exacerbated by such provisions.

Equal Remuneration Principles

In our Submission we suggested that Fair Work Australia develop Equal Remuneration Principles similar to those developed in the Queensland and New South Wales jurisdictions which give guidance in the making of equal remuneration claims.

We refer the Committee to the recent Decision of the Queensland Industrial Relations Commission relating to the Queensland Community Services and Crisis Assistance State Award finding that a range of factors contributed to the undervaluation of work in the sector and 'a pattern emerges that gender is at the core of present work value of the community sector' and the 'work has been undervalued on a gender basis'. The workers are to receive increases that range from 18% to 37%.

This Decision is a timely and contemporary example of how the formal industrial relations system can provide an immediate, expansive and progressive means of addressing problems of pay equity.

Equal Opportunity in the Workplace Agency:

In our Submission to this Committee we pointed out many issues in relation to the role and function of the Agency.

We note that there is now a new Acting Director of the Agency and that the Agency is undergoing review. We support a review of its role and function.

We also draw the Committee's attention to a study by Andrea North-Samardzic of the University of New South Wales into the Agency which argued that 'equal employment opportunity reporting obligations introduced by the Howard Government provide employers with a smokescreen that hides the reality of the EEO efforts'.

We thank the Committee for hearing and giving serious consideration to our Submission and suggestions.

Suzanne Hammond

Fran Hayes