SUBMISSION NO. 58
AUTHORISED: 25-05-05

FROM: Freeden Andrea [redacted]

Sent: Wednesday, 20 April 2005 10:05 AM

To: Committee, FHS (REPS)

Subject: Submission for Inquiry into Intercountry Adoption

Introduction:

We are Campbell and Andi Freeden, parents of a female child who was adopted at the age of 12 months from China in 2003. We have subsequently been approved to adopt a sibling for our daughter and our application is awaiting a 'referral' of a child by the Chinese Centre for Adoption Affairs. We expect our second child to be home with us around November of this year.

1. **Any inconsistencies between state and territory approval processes for overseas adoptions;**

Currently Adoption legislation and administration is State and Territory based. This has created a myriad of inconsistencies in policy and legislation from state to state.

1.1 Upper age limits of prospective adopters

States and territories have different upper age limits for prospective adopters. Whilst NSW, ACT, Queensland and Victoria have no upper age limit for adoption applicants whereas in South Australia, Western Australia, Tasmania and Northern territory there are restrictions that vary in complexity. For example in South Australia there must not be more than 45 years age difference between the parent and the child. This is extremely frustrating for potential adoptive families – especially so in the case of applicants seeking to adopt for a subsequent time, whose parenting abilities are proven and are denied on the basis of age alone. These restrictions do not recognise the trend of older parenting that is emerging in Australia. This legislation is also discriminatory: a family over the age of 45 in South Australia could have access to state funded IVF treatment but they will be denied assessment as candidates for an adoptive child. Denying prospective parents the right to assessment based purely on age is discriminatory. All potential applicants should be assessed on their merit – and this should include investigation into health, finances, attitudes to parenting etc. All relinquishing countries have 'rules' around age limits of adoptive parents and this should guide Australia's policy and legislation.

1.2 Applications to adopt by single people:

Other differences include marital status and approval of single applicants. In Victoria single people are welcome to apply for an intercountry adoption. On the other hand a single person in South Australia will be approved for adoption, but after paying costs of close to $10,000 will be told that their application will never be sent overseas all the time there are 'couples' applying to adopt. In Queensland single people are ineligible to apply. Single applicants should also be assessed on their merit in a fashion that is equitable with those in a marriage relationship.

1.3 State based legislation creates confusion for relinquishing countries.

These differences are confusing for relinquishing countries and there have been many illustrations of this. We are aware of children being allocated to approved families in South Australia only to have the State jurisdiction 'reject' that child on the basis of their age (in relation to the adoptive parents age). This is in no way on the best interest of the child, as there are far more children living in institutionalised care than there are adoptive families – and this rejected child is not assured another chance of adoption. The departments of community services in each state and territory argue that age limits are valid because there are more adoption applicants than children in need of adoption. However this is not the case. In China it is estimated that there are from several hundred thousand to a million children in institutional care and China has the capacity to take far more Australian applicants that it currently does. For example, in the United States of America between 7000 and 10,000 children are adopted from China alone each year.

1.4 Inconsistency in fees charged to adoptive applicants.

Both the federal and state governments subsidise biological families in the form of provision of IVF, antenatal, obstetric and postnatal care. In contrast, intercountry adoption is largely user pays and both the federal and state governments charge fees to adoptive parents. There is inconsistency in fees which range from $2160 in Tasmania to $9700 in NSW. Adoption Acts are written with the explicit expression that practices must be consistent with the philosophy of 'the best interest of the child'. We don't believe it is in the best interest of a child to be placed with wealthy families only. Many families struggle significantly to produce the necessary fees. In our case our first adoption cost $30,000 and this money could be put to better use in providing for our child's needs. To fund our adoption application we had to sell off a part of our superannuation fund (we are self employed). We also feel it is discriminatory to make local adoption 'free' to potential applicants but have such comparatively large fees for intercountry applicants. The high cost of intercountry adoption places a significant burden on families and acts as a major deterrent for many potential families.

2. Any inconsistencies between the benefits and entitlements provided to families with their own birth children and those provided to families who have adopted children from overseas.

2.1 Maternity Payment

The primary difference in entitlements and benefits provided to families with 'biological' children and those provided to families who have adopted children is in reference to the $3079 maternity payment or 'baby bonus'.

It has been stated that all families are entitled to this one off payment, however this is not the case. The bonus is only available to families whose children join then up to the age of 26 weeks. This 'incentive' is also paid to those families who are unfortunate enough to experience a stillborn birth. We protest that this is discrimination against adopted children and their families. Due to international adoption procedures in China which require a 6 month timeframe for biological relatives of abandoned children to come forth, as well as various another social and administrative processes NO child will ever be adopted before the age of 26 weeks. Therefore families who adopt children from China (and most other countries) are ineligible for the 'baby bonus'.

The process of becoming a family and preparing for our child involved all of the factors that a biological family undertakes as well as many additional ones. We needed to purchase clothing, toys, cots, highchairs, car seats, toiletries and other items. Our 12 month old baby was a 'baby' in every sense of the word. Our daughter had lived life in a resource poor orphanage and was somewhat developmentally delayed. She also displayed many signs of post-traumatic-stress syndrome. When we first received our child at 12 months she could not sit unassisted, made minimal vocal noise, did not eat solid food and was terrified of many normal childhood experiences such as bathing. Her condition required intensive care by us and we needed to involve several health care professionals on an ongoing basis. This need for intensive parental care is well recognised by the Department of Human Services who require potential adoptive parents to undergo education to assist them in understanding what their future child's needs might be. Unfortunately at present the Federal Government fails to understand that adoptive families are in fact in a greater need for government support, not less than that of an 'average' biological family.

We know that the government argues that the baby bonus is offered to financially assist families throughout their prenatal period[1]. Whilst we did not have prenatal appointments to attend the process to adopt is extremely lengthy and required many hours of work. Our process took 4 years and this involved many visits from a social worker who was only available during business hours, medical

[1] http://www.familyassist.gov.au/internet/fao/fao1.nsf/content/payments-maternity_payment).

appointments, visits to the police, our accountants and bank, all of which required us to take unpaid leave from our places of employment. When we were referred our daughter we spent many hours preparing including visits to DIMIA, doctors to obtain clearances and time to make travel arrangements.

Financially the process was immensely expensive. Whilst biological families are supported through Medicare and families who chose the IVF route are reimbursed for almost all of their expenses the bill for adopting our first child was $30,000 and we expect our second adoption to come closer to $35,000. Adoptive families are the only clients of the Department of Human Services that pay a fee for service.

It is claimed that one of the purposes for the 'baby bonus' is to assist families in having one parent remain at home for longer before returning to the paid workforce. Adoptive families are not eligible for the baby bonus and yet in Victoria we sign an undertaking stating that at least one parent will take a minimum 12 months 'parental leave' from employment to care for our newly adopted child. We agree wholeheartedly with this requirement, but find it confusing that this is not a requirement of biological families and yet they are paid an incentive to stay at home with their new child. Adoptive families are given no choice in the matter. In our experience most children returning with their new families to Australia have many special needs and it is imperative that at least one of the parents is available 24 hours a day to help that child attach and feel a sense of security. However for many families to be without income for 12 months after paying for a $30,000 adoption means that adoption becomes unattainable.

In many situations adopted children often need intensive care beyond the 12 months. In our case we have been home with our daughter for two years and we are still unable to return to the workforce in a full time capacity. As our child can not tolerate traditional child care arrangements we have both had to work part time and engage our extended family in assisting with our daughters care. This has had a significant financial impact on our families and us. Our family income has halved in the last two financial years since this arrangement. Because of these costs adoptive families are just as 'in need' of federal support as biological families. This was recognised by the Human rights and Equal Opportunity Tribunal in their recent community consultation on paid maternity leave. It was asked whether adoptive mothers should qualify for paid maternity leave and whether there should be a restriction on the age of the child at placement and it was concluded that adoptive families should be supported in the same way as biological families regardless of the age of their child at placement.

2.2 Maternity Immunisation Allowance

The Maternity Immunisation Allowance is another form of governmental assistance that excludes many adopted children (although again not stillborn births). As it is for children born on or after 1 January 2003, between 18 and 24 months of age2, who have been fully immunised many adoptive families do not qualify for the maternity immunisation allowance because of the age of their child at placement. Despite this many children older than 2 years of age arrive in Australia having not been immunised at all or with incomplete immunizations. Therefore there the same necessity for immunisation of these children as for children born into their families or children adopted at a younger age. We suggest it would be more equitable if the Maternity Immunisation Allowance applied to all adoptive families meeting the non-age related requirements if they immunise their new child within 2 years of placement.

Given the relatively small number of adoptions that take place each year (356 between 2003-2004[3]), the financial burden to treat all adoptive families equitably would be negligible. This assistance would mean a great deal to adoptive families. We would feel that Australia was welcoming our child in the same way they would have welcomed a biological child. We have not been able to 'go forth and procreate' as we were implored to by the federal government – but with love we have added to the Australian population in a manner that is valid. We can only assume that by making the baby bonus unavailable to families who are built through international adoption the Australia Government at best ignorant of the needs of adoptive families or at worst is intentionally discriminating against our children, and actively working to discourage international adoption.

2.3 Discriminatory Workplace Practises

Adoptive families also face other discriminatory practises, particularly in the workplace. Many Awards and Workplace Agreements make provision for family friendly work practises such as paid maternity leave and flexible return to work arrangements for mothers returning to the paid workforce. However these same Awards and Workplace Agreements actually discriminate against adoptive families. For example the Victorian Local Government Award (2001) provides for mothers to return to work on a part time basis up until the child's second birthday. Whilst this is a fantastic initiative for many families it excludes many adoptive families. I held a senior management position within local government before I took maternity leave. When I was due to return to work my daughter had already had her second birthday and so I was excluded from this Award provision that would have allowed me to balance my work and family responsibilities. As my daughter had considerable needs that rendered traditional childcare

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[2] http://www.familyassist.gov.au/fao/what_why_how/07_maternity/02.html
[3] Adoptions Australia, 2003-2004 http://www.aihw.gov.au/publications/cws/aa02-03/aa02-03.pdf

arrangements suitable for her welfare I had no option other than to resign from my position. As such we have incurred a significant loss of income.

Other Workplace Agreements offer paid maternity leave. Whilst some agreements treat adoptive and biological families equitably this is not consistent. According to the Work and the Family Unit of the Department of Employment and Workplace Relations 29% of workplace agreements have paid maternity leave but only 1% have paid adoption leave. As an example until recently the Department of Human Services (who administer adoptions in Victoria) provided paid maternity leave to all new mothers excluding adoptive mothers. OPSM and Qantas are two other organisations who have workplace agreements that offer paid maternity leave but do not offer paid adoption leave. Again adoptive families and more specifically their children are treated in a way that appears to hold them in less esteem than biological families. Legislative protection is required to ensure that adoptive families receive fair treatment wit regards paid leave.

Further more the Workplace Relations Act 1996 provides 12 months unpaid adoption leave for families adopting a child. However, this leave only applies if the child is under 5 years at adoption. Thus, if a family adopts a child who is 5 or older there is no legislated protection to take any leave from work at the time of placement. As already discussed adopted children come with many special needs and this is often even more so the case in children adopted at an older age. For parents to address these needs they need to spend an intensive amount of time with their child. All adoptive families need to take leave from work to spend time with their new child. To not protect adoptive families demonstrates a lack of understanding for adoptive families. Families that do take leave from work are not protected. The age restriction in the Workplace Relations Act should be removed.

We thank you for the opportunity to address the Committee on the above issues and look forward to a positive outcome for all adoptive children and their families.

Campbell and Andrea Freeden

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