30 March 1999

The Committee Secretary
House of Representatives Standing Committee on
Employment, Education and Workplace Relations
Suite R1 116 Parliament House
CANBERRA ACT 2600

Dear Mr.McMahon,

Employee Share Ownership in Australian Enterprises – House of Representatives Standing Committee Inquiry

We are grateful for the opportunity to assist the Standing Committee inquiry into share ownership schemes.

ACCI Policy

ACCI has sought in recent years to promote all forms of employee financial participation or performance related pay schemes. These include:

- share ownership schemes;
- individual performance appraisal systems;
- group performance related reward schemes;
- enterprise performance related reward schemes such as productivity/gain sharing, profit sharing.

I attach the following ACCI publications, which are one of the most important ways ACCI has of promoting these forms of remuneration:

- the ACCI 'Best Practice' Information Paper No.1: *Performance Related Pay in Enterprise Agreements*, March 1997*;*
- *Performance Related Pay An Employer Guide*, May 1997;
- *Sharing in Enterprise Effectiveness: Employee Share Schemes*, January 1988.

The first two publications deal with similar issues from a slightly different point of view. The first deals mainly with the sorts of approaches being introduced through enterprise agreements, while the second is a more general document.

Performance Related Pay An Employer Guide

The discussion provided in *Performance Related Pay An Employer Guide* is in relation to employee share schemes is as follows:

4.3.2 Dividend Based Schemes

These are schemes whereby employees participate in the ownership of a firm or trust fund and receive benefits through their rights to dividends or other returns:

4.3.2.1 Rights based employee share schemes dependent upon the performance of the enterprise

Employee share schemes vary considerably in their detail but generally involve employees becoming eligible to participate in the ownership of the company.

The variations are usually based on one of three major design categories:

4.3.2.1.1. Share Options
These schemes involve management issuing the option to employees to purchase shares in the company as part of their total remuneration package.

In most cases the options are structured such that when the option is exercised, that is when the employee purchases the shares, the purchase price of the shares is the market price of the shares at the date that option was first issued. In these schemes, provision can be made to extend the period for which an option remains valid, although as a general rule options expire at the end of five years from the date of issue. Options are normally issued at a nominal price or they may be granted free of charge to employees who have achieved certain predetermined goals set by the company.

In Australia, option schemes have generally been restricted to executive and management ranks. This is principally due to the fact that option schemes are self financing and require the employee to provide the required funds in full to take up the option available. However, there are indications that they are spreading to a wider proportion of employees.

4.3.2.1.2Employee Acquisition Schemes
The schemes can be applied to both registered and non registered companies and vary widely in form and extent to include companies with small equity participation by employees with no voting rights, to producer co-operatives with 100 per cent employee ownership. The majority of these schemes enable employees, after the completion of a minimum length of service, to purchase company shares at market value or at a rate discounted on current market value.

Often these schemes involve restrictions on voting rights and the length of time for which the shares must be held prior to disposal.

4.3.2.1.3 Trust Schemes
These are schemes where shares are acquired in the company by a unit trust established to act as trustee for the employees. The unit trust usually purchases the shares with funds lent to it by the employer, and employees take up an interest in the trust through an acquisition of units in that trust.

Employees usually pay market price for their units. Then as a unit holder the employee has a defined interest in the shares held by the trust but does not have legal ownership of the shares or any voting rights that accompany legal ownership.

The unit trust may be structured such that:

- the entitlement to capital growth is dependent on factors such as the employee's length of service with the company;
- compulsory redemption of employee units upon departure from the company is ensured;
- employees are guaranteed a minimum buyback price for their units in the trust.

4.3.2.2 <u>Rights based schemes dependent upon the performance of portfolio managers:</u>

4.3.2.2.1Employee Investment Funds
These are funds in which a proportion of profits are collectively managed by employees who are in turn able to invest, inter alia, in shares of their companies.

An agreement which incorporates several aspects of the different schemes outlined above, is the *K D Concepts Enterprise Bargaining Agreement 1995*. [Print M9258] Certified: 12 February 1996. In this agreement profitability and productivity targets are set which determine the size of the 'gain' to be shared. Each employee will receive a number of units of this gain according to personal performance.

The value of each gain unit will be determined based on the net profitability of the company, the productivity gain, the quality gain (measured as a reduction in customer complaints), and any scrap reduction.

The number of units each employee then receives will be determined by the following formula:

Basic allowance: 20 units for everyone

Length of service: 2 units for the first year and increasing by 2 units per year up to a maximum of 10 units.

Seniority/Skill: Ranging from 5 to 30 units dependant on position

Lateness:	Never late	+ 5 units
	Up to 5 times	0 units
	5 - 10 times	- 5 units
	Over 10 times	- 10 units
Absenteeism:	Never absent	+ 10 units
	0 - 3 days	0 units
	3 - 4 days	- 2 units
	4 - 5 days	- 4 units
	5 - 6 days	- 6 units
	6 - 7 days	- 8 units
	7 - 8 days	- 10 units
	over 8 days	- 15 units

Discipline: Each formal warning reduces units to 40% of total entitlement.

It was not clear from the Agreement what the value (in $) of each unit would be as this is conditional upon enterprise wide performance. Payments will be made in December and June each year for the periods finishing in November and May respectively.

Interestingly the agreement appears to link remuneration to performance at two levels. At a collective level the performance of employees determines the value of each unit to be distributed (through efforts to increase productivity and quality, and to decrease waste), whilst at an individual level, the performance of particular employees in regard to attendance and discipline governs the share they receive of the collective gain.

The 1988 Publication

The 1998 publication discussed the taxation position relating to employee share ownership schemes in some detail, but much of that material is now out of date. Taxation issues are a key issue in share ownership schemes, and it is of fundamental importance that the taxation system promotes rather than impedes use of these schemes.

Performance Related Pay in Enterprise Agreements

It may be of some interest that a small number of enterprise agreements certified under the *Workplace Relations Act* 1996 include provision for employee share ownership schemes, and I attach a number of the clauses from such agreements for your information. Some of the provision in agreements includes the following:

. *Westpac Banking Corporation Enterprise Development Agreement 1996/1998* [Print N1573] delivers shares or cash to all eligible full-time and part-time employees, based on the bank's performance as measured by return on assets at the end of each financial year [a copy of the relevant clause is included in the Best Practice publication];

. *ICI Explosives – Kalgoorlie Packaged Plant Agreement 1997* [Print P1000] indicates that after at least 2 years of continuous service, employees will be offered an interest free loan to purchase a specified number of shares in the company;

. *Multigroup Distribution Services Pty Ltd (Tasmania) Agreement 1997* [Print Q7471] provides for the introduction of a discounted price share scheme as soon as practicable;

. *Gregg Steel Certified Agreement 1998* [Print R0202] provides for all employees to be offered the opportunity to participate in the Australian National Industries Limited Employee share plan;

. *Austral Steel – Eagle and Globe Certified Agreement 1998* provides for a similar thing;

. *Security Employees (Victoria) Award 1993* [Print Q7077] requires the company to offer participation in the Employee Share Plan to employees with at least 12 months continuous service.

. *Tahmoor Mine Site Agreement 1998* [Print Q9161] which provides for a right for employees to access up to 10,800 45 cent shares at the discount price of 20 cents per share, and suggests that employees should consult their taxation adviser before exercising the option as taxation implications will vary according to the individuals taxation situation.

Copies of most of the relevant agreement clauses are attached to this letter.

Enterprise agreements seem to deal with employee share ownership in various ways, including by establishing for example a system of interest free loans to enable employees to purchase a specified number of share in a company, providing for access to a pre-existing scheme, or establishing an employee right to access shares of a certain number at a certain discounted rate.

ACCI welcomes the fact that enterprise bargaining does include consideration of the various forms of employee financial participation, including to a limited extent employee share ownership schemes. In ACCI's view it is desirable that new forms of remuneration be more widely discussed, to provide a closer link between business performance and employee remuneration. Establishing closer links of this kind may be in many businesses an important way of enhancing employee commitment and the effective operation of a business. There is no 'cure all' for business problems, nor can it be assumed that these measures will in all cases be appropriate. Nevertheless it is important that they be widely recognised as an option for businesses, and that any benefits that can be obtained from them be fully explored.

If I can provide any more assistance please contact me.

Yours sincerely,

Reg Hamilton
Manager, Labour Relations