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## Council of Small Business Organisations of Australia Ltd.

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### **Inquiry into aspects of Australian Workers Compensation**

Workers compensation fraud has a direct impact on all employers as it increases the cost of funding the workers compensation system. Insurance companies pass on the cost of fraudulent claims to employers by increasing premiums. The loss of revenue to the workers compensation system as a result of individual employers fraudulently minimising their premiums results in increased premiums to employers. Fraud places an unfair burden on employers who comply with the system and places them at a competitive disadvantage. Fraud means less money is available to those workers who need it.

In addition to fraud by non-payment of premiums fraud also occurs through fraudulent claims made by employees. This is where an injury occurs that may not be visible by a witness but is alleged to have taken place either at the workplace or on their way to or from work. The frustration for small business is that often these types of claims are accepted by the insurance companies and as a result the premium to the small business is increased to cover the payout of the claim where the small business person has no say in the settlement of the claim. In many instances the small business person would dispute it.

Small business can be disadvantaged by the rating that applies to different types of businesses and industry groups whereby one individual employee doing a specific task can increase the rate of premium for the establishment as a whole because the rate for that individual is higher than the rate for the other staff members. Small business would like to see a rating on the individual business not by the type of work that is being carried out by individual employees within the business but for the insurance company to assess risk based on how the business is set up and operates rewarding small business that have good OH&S practices and no claims. Most ratings are based on past claims by industry and work areas, this does not always reflect how small business operates because what causes these claims may not always exist in the type of work being conducted in the small business but the small business is penalised by the rating assigned to it based on high risk due to different types of work practices.

I have been advised by an insolvency practitioner that he has seen an abnormal proportion of liquidations appointed by the court at the application of the Workers Compensation Insurers. This is both a symptom and a cure of delinquent non-payers. Quite often the company which is wound up

has few creditors and no assets. Regularly the company has not traded for many years. The legal cost to the Workers Compensation Insurers to have the company wound up may be \$4,000 and above. The liquidator appointed by the court is regularly unpaid for his fees to conduct the liquidation. Often times the directors have disappeared and cannot be located.

If the company were trading and not paying its normal trade creditors, experience shows that ninety nine times out of one hundred the company is wound up at another creditors or the directors instigation ie well before workers compensation commenced action. Sometimes a trading company is wound up by a workers compensation insurer but this is normally typical of a director who has ignored workers compensation paperwork and demands while paying other accounts. This is the exception that proves the rule.

The practitioner understands that under the workers compensation legislation the workers compensation insurer cannot cease insuring the company until the company has notified the insurer that it no longer employs. In the absence of notification the workers compensation insurer must continue to cover the company until such time as the company is wound up. Hence with delinquent payers the insurer has no real option other than to liquidate the company at its cost – a cost that is recovered through higher premiums from those who do pay.

Work related injury or illness costs millions of dollars every year. Poor health and safety practices can result in unexpected costs which may affect the profitability or even the future of small business.

The number of people working in the small business sector is vital when taking into account the size and nature of OH&S problems and the approach needed for the successful delivery of OH&S information to that group.

44.5% of the Australian workforce (based on ABS statistics) work in businesses that have 20 or less employees. These businesses are spread over 1,140,000 separate businesses throughout Australia. The remaining 55.5% work in businesses with 20 or more employees spread over 52,000 separate businesses throughout Australia. Therefore it can be seen that reaching the businesses with less than 20 employees requires a lot more effort than that required to reach the rest of the workforce.

Small business has concerns regarding workers compensation:

1. Simpler and clearer guidelines for OH&S that is related to small businesses of less than 20 employees would assist in improving work safety;
2. Simpler paperwork requirements for processing OH&S claims;
3. More effective management of claims by insurance companies that reduce the premium to small business taking into account previous no claim history and getting the employee back to work on a more timely basis (many insurance companies are now doing this);
4. Small business is concerned about rising costs in the workers compensation area. Small business tries to ensure a safe workplace but is concerned that the burden of any claim is billed in future premium increases. Most small businesses feel that their past no claim history should cover the cost of the future claim however workers compensation insurance has been burdened by large claims and lack of reserves that is now causing the rise of premiums when a claim is made.

In management of claims the small business operator would like to see minor injuries being covered by the employees own doctor or local hospital without the increased cost of these procedures being processed as a workers compensation claim (the cost is higher by a local doctor when he sees it as a workers compensation claim than normal visit). The procedure of notifying the insurance company should continue in a simple method that confirms the nature of the injury in order to protect the employee in the event the minor injury becomes long term or of a more serious nature. This would reduce the cost of processing this type of claim than what occurs at present. Payment at doctors and hospitals should be on a bulk bill basis with any gap being paid by the employer and reimbursed directly by the insurance company. This may bring savings to the processing cost of workers compensation claims.

Small business operators do not generally keep detailed records that show lost production time as a cost in relationship to an accident or injury in their workplace. They accept the reality that the employee will be lost to them until they return often causing the small business person to take over the role.

In summary small business would like to have reduced cost of premium for their workers compensation, to maintain a safe workplace, train their staff in operating safely, and being mindful of their duty of care. When an injury occurs they would like to see their employee return to work as quickly as possible and where the injury prevents the worker from doing the same job to have some method of pooling that employee to other small business who can offer employment that this employee can now do that may not be available in his present employment thus reducing the workers compensation claim.

If you require any further comments regarding this submission please contact:

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