

EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS

**SENATE LEGISLATION COMMITTEE - QUESTIONS ON NOTICE
2007-08 ADDITIONAL ESTIMATES HEARING**

Agency **Office of the Australian Building and Construction Commission**

DEEWR Question No. EW131_08

The Chair (Senator Marshall) asked on 21 February 2008, EEWR Proof Hansard page 84.

Question

HR Nicholls Society in 2007.

Can we have a copy of that? (Regarding Mr Hadgkiss's presentation before the HR Nicholls Society.)

Answer

See Attachment.

1.


 Australian Government
 Office of the Australian Building and Construction Commissioner

Australian Building and Construction Commission Presentation

HR Nicholls Conference
The ABCC and unlawful conduct in the construction industry
 13 October 2007

Nigel Hadgkiss
 Deputy Commissioner

2.


 Australian Government
 Office of the Australian Building and Construction Commissioner

Operational Statistics

1 October 2005 to 8 October 2007

5,603 matters received via 1800 hotline or independently


 590 comprising reports


 34 investigations underway


 64 prosecutions


3.


 Australian Government
 Office of the Australian Building and Construction Commissioner

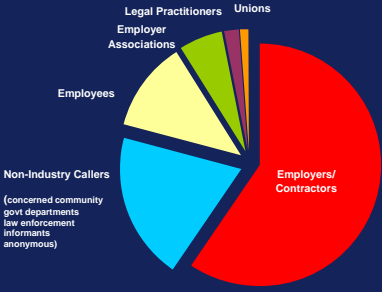
Recent referrals to other agencies

- 360 enquiries to other Federal and State agencies during July 2006-June 2007, including:
 - 231 to domestic building authorities
 - 60 Federal or State IR agencies
- 13 matters to other relevant agencies and bodies:
 - 2 NSW Police regarding organised crime
 - 1 VIC Police regarding threats to kill ABCC Inspectors
 - 1 DPP regarding attempting to pervert the course of justice
 - 1 DPP regarding threatening phone calls to union officials
 - 2 ATO underpayment of superannuation
 - 4 Workplace Authority for breach of an award or an agreement
 - 1 ACCC for breach of the *Trade Practices Act*
 - 1 ASIC for breach of the *Corporations Act*

4.



 Australian Government
 Office of the Australian Building and Construction Commissioner

Callers

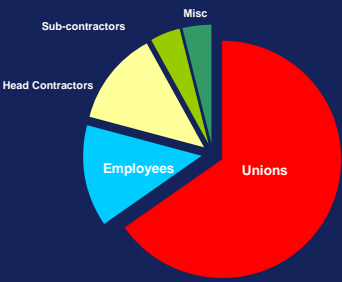


Caller Category
Employers/Contractors
Non-Industry Callers (concerned community, gov departments, law enforcement, informants, anonymous)
Employees
Legal Practitioners
Employer Associations
Unions

5.



 Australian Government
 Office of the Australian Building and Construction Commissioner

Entities Complained Against



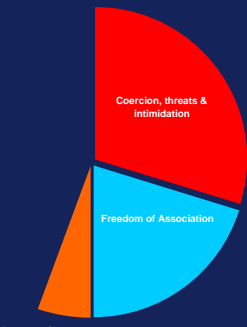
Entity
Unions
Employees
Head Contractors
Sub-contractors
Misc

6.

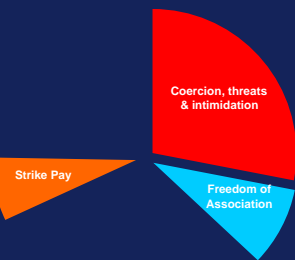

 Australian Government
 Office of the Australian Building and Construction Commissioner

Conduct on Sites and Projects

Then



Now



7.

Unions to drop idea

Policy on

By PAUL ROBINS

WORKPLACE EDITOR

VICTORIAN ACS built

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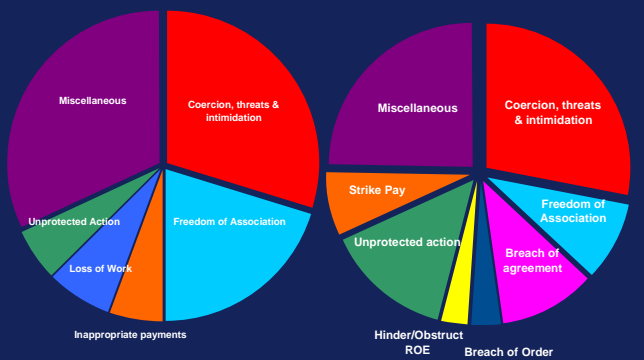
The strategic withdrawal from the hardline practice instituted in 1996 follows pressure from the Building Industry Taskforce. It has been targeting and prosecuting large construction companies for paying strike pay for the walk-offs. The policy shift, which will save the local industry millions of dollars a year in lost productivity, is a reflection of the unions' desire to avoid direct confrontation with the taskforce and its more powerful successor, the Australian Building and Construction Commission.

the unions have not been able to force a change in the law and the unions' desire to avoid confrontation with the taskforce and its more powerful successor, the Australian Building and Construction Commission. Up to 700 construction delegates will attend their annual conference.



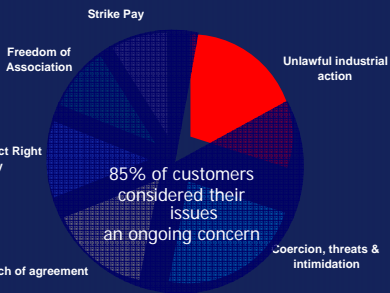
8.

Conduct on Sites and Projects



9.

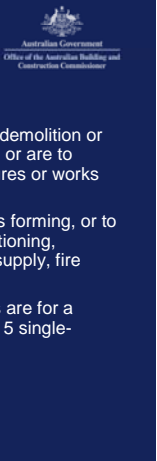
Remission Syndrome



10.

Definition of "building work"

- construction, alteration, extension, restoration, repair, demolition or dismantling of buildings, structures or works that form, or are to form, part of land, whether or not the buildings, structures or works are permanent
- installation in any building, structure or works of fittings forming, or to form, part of land, including drainage, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply, fire protection, security and communications systems
- includes domestic housing when the building activities are for a multi-dwelling development for construction of at least 5 single-dwelling homes
- land includes land beneath water.



11.

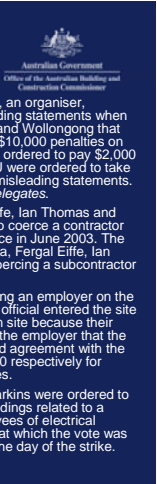
ABCC PROSECUTIONS



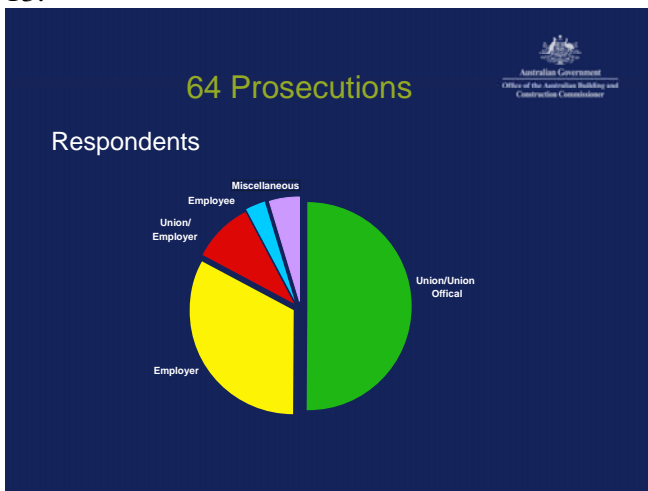
12.

Significant Results

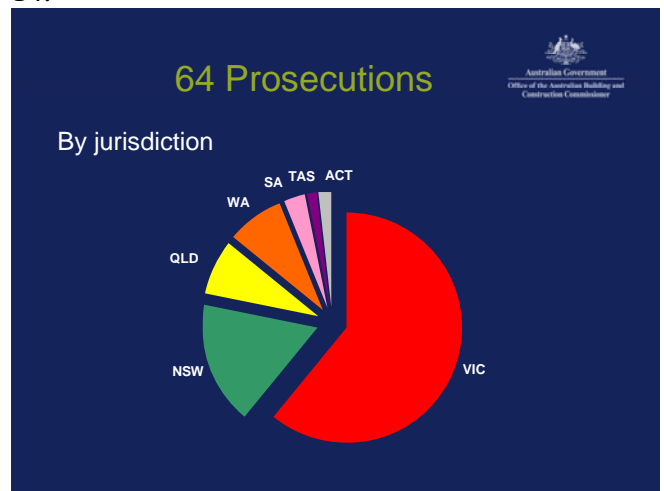
- The ABCC took action against the Federal and NSW branches of the CFMEU, an organiser, Edmond Casper, and a site delegate, Mick Lane, for making false and misleading statements when they told several plastering subcontractors on building sites in Fairy Meadow and Wollongong that they must become union members. In March 2007, Justice Graham imposed \$10,000 penalties on both the CFMEU's Federal and NSW branches. Mr Lane and Mr Casper were ordered to pay \$2,000 and \$1,250 in penalties respectively. In addition, both branches of the CFMEU were ordered to take out full-page advertisements in the Illawarra Mercury to correct the false and misleading statements. They were also directed to destroy the CFMEU Code of Conduct for Union Delegates.
- In June 2003, the AMWU and four AMWU organisers, Ale Mulipola, Fergal Eiffe, Ian Thomas and Steve Mansour engaged in various acts on two construction sites with intent to coerce a contractor to make a certified agreement with the AMWU. The coercive conduct took place in June 2003. The Federal Court fined the AMWU \$25,000 and four union organisers Ale Mulipola, Fergal Eiffe, Ian Thomas, and Steve Mansour \$1,000, \$600, \$400 and \$400 respectively for coercing a subcontractor to make a certified agreement with the AMWU.
- The CEPU and CEPU (ETU) official, Peter Mooney, were penalised for coercing an employer on the Bass Link Project at Loy Yang to enter into a certified agreement. The CEPU official entered the site on 8 November 2005 and prevented four apprentices from performing work on site because their employer did not have a certified agreement with the CEPU. Mr Mooney told the employer that the apprentices would not be permitted on site until the employer signed a certified agreement with the CEPU. The CEPU and Mooney agreed to pay penalties of \$13,000 and \$2,400 respectively for unlawful conduct involving the exclusion from a building site of four apprentices.
- In September 2007, the CEPU (ETU) and Assistant State Secretary, Kevin Harkins were ordered to pay \$11,000 and \$8,800 in penalties for unlawful industrial action. The proceedings related to a strike of Tasmanian electrical workers on 14 December 2005 when 81 employees of electrical contractors failed to attend for work. Mr Harkins had presided over a meeting at which the vote was taken for workers to withdraw their labour. Harkins also addressed a rally on the day of the strike.



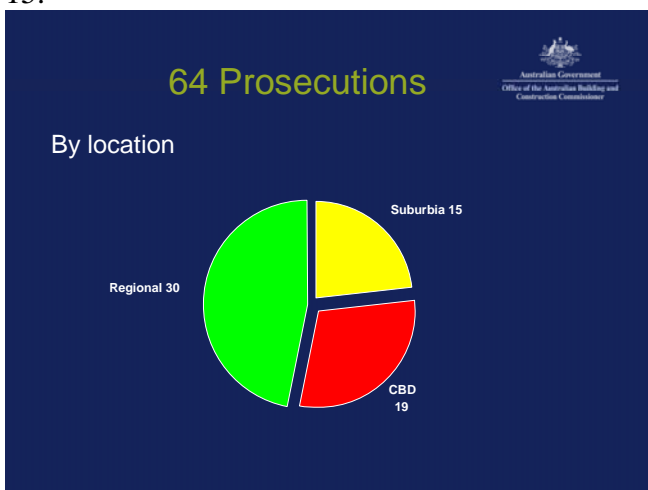
13.



14.



15.



16.

- Prosecuted**
- State Government
 - State President & senior union officials
 - Management personnel
 - Company employees
 - National companies

17.

- Prosecuted**
- | | | |
|---------------------------|----------------------------|--------------------------|
| ADCO Constructions | Edmond Casper | Michael Douglas |
| Adrian McLoughlin (CFMEU) | Elias Spernovasillas | Multiplex |
| Alan Blevin | ETU | Nickolas Papanotas |
| Ale Mulpota (AMWU) | Expocontil | Peter Costello |
| Alex Tadic | Fergal Eiffe (AMWU) | Peter Levy |
| Alf Di Virgilio | Firebase Sprinkler Systems | Peter McLean (CFMEU) |
| Allan Maher | Freshmore | Peter Mooney |
| AMWU | Gerard Benstead (CFMEU) | Peter Primmer (CFMEU) |
| APN Group | Gordan Aldin + 106 | Phillip Cattanzzi |
| Austrass Freysinet | Grant Thorson | Robert Bannister (CFMEU) |
| Barclay Mowlem | Husein Karupovic | Roger Aleknivicus |
| Barry Hoffman (CFMEU) | Ian Thomas (AMWU) | Saled Eshrajhi |
| Baulderstone Hornibrook | Illia Crnac | Sam Fry (CFMEU) |
| Bob Mates | Joe McGahan (CFMEU) | Schiavello |
| B&P Caselli Constructions | John Parker | Scott Wilcox (CFMEU) |
| Bill Oliver (CFMEU) | John Setka (CFMEU) | Selite Windows and Doors |
| BVM Builders | Jose Esteves | Shane Shedy |
| Casello Constructions | Justin Feehan | SJ Higgins |
| CEPU | Kevin Hopkins (ETU) | Steve Allan (CFMEU) |
| CFMEU (Federal) | Les Lanscar | Steve Mansour (AMWU) |
| CFMEU (NSW) | Mark Edwards | Steve Savic |
| CFMEU (QLD) | Mark Grestch | Sunland Constructions |
| Charles Corbett | Max Hood | Victorian Government |
| CL Godfrey | Maxim Electrical Services | Walter Molina (CFMEU) |
| Colin Stewart (CFMEU) | Michael Lane (CFMEU) | Walton Constructions |
| Daniel Oskam | Michael Powell (CFMEU) | WJ Pratt |
| David Mier | | |
| David Rix | | |
| D & E Air Conditioning | | |

18.

- National Companies**
- | | | |
|---------------------------|----------------------------|--------------------------|
| ADCO Constructions | Edmond Casper | Michael Douglas |
| Adrian McLoughlin (CFMEU) | Elias Spernovasillas | Multiplex |
| Alan Blevin | ETU | Nickolas Papanotas |
| Ale Mulpota (AMWU) | Expocontil | Peter Costello |
| Alex Tadic | Fergal Eiffe (AMWU) | Peter Levy |
| Alf Di Virgilio | Firebase Sprinkler Systems | Peter McLean (CFMEU) |
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| CFMEU (QLD) | Mark Grestch | Sunland Constructions |
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| Daniel Oskam | Michael Powell (CFMEU) | WJ Pratt |
| David Mier | | |
| David Rix | | |
| D & E Air Conditioning | | |

19.

ABCC Interventions



- ABCC may intervene in AIRC proceedings as a right & in court proceedings in public interest
- ABCC has intervened in 63 court and AIRC matters

20.

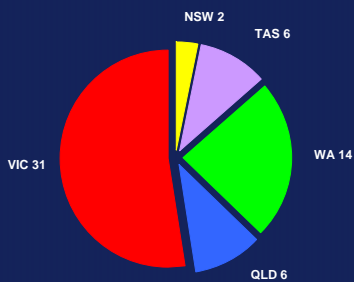
Use of compliance powers

Compliance powers have been used 59 times throughout Australia

5 further hearings before end of this month

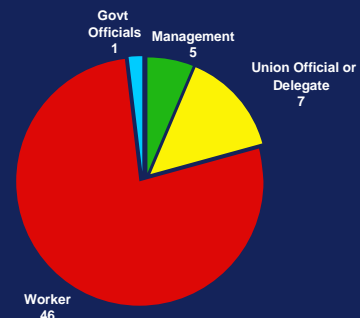
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Hearings by jurisdiction



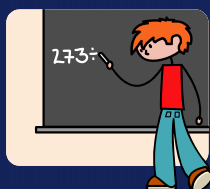
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Examinees



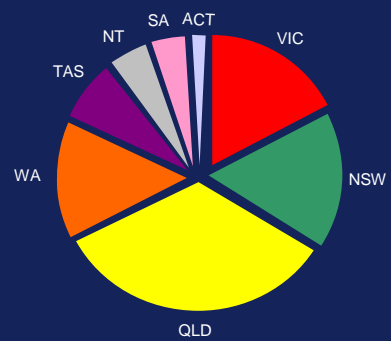
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ABCC EDUCATION

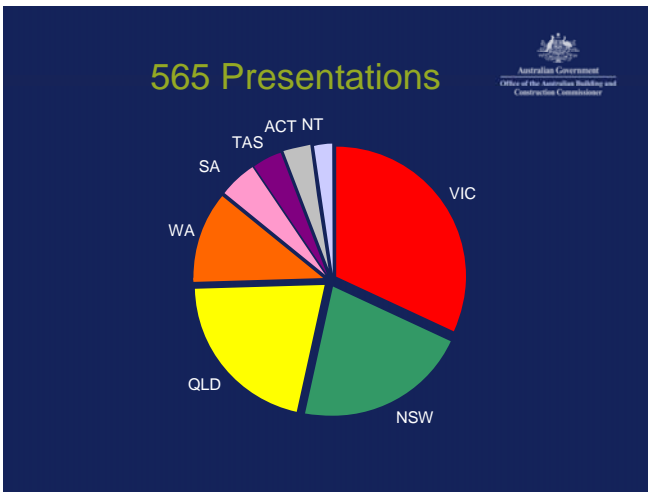


24.

2,613 Site Visits



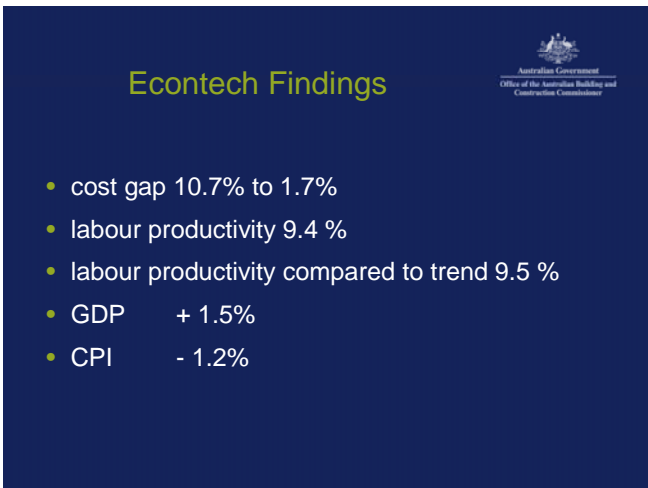
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26.



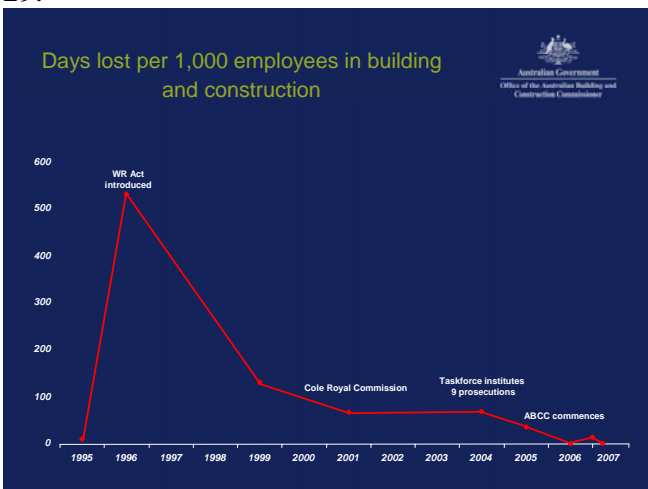
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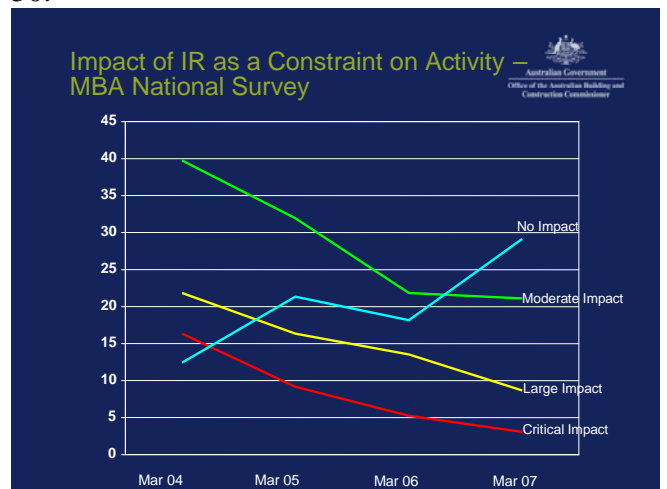
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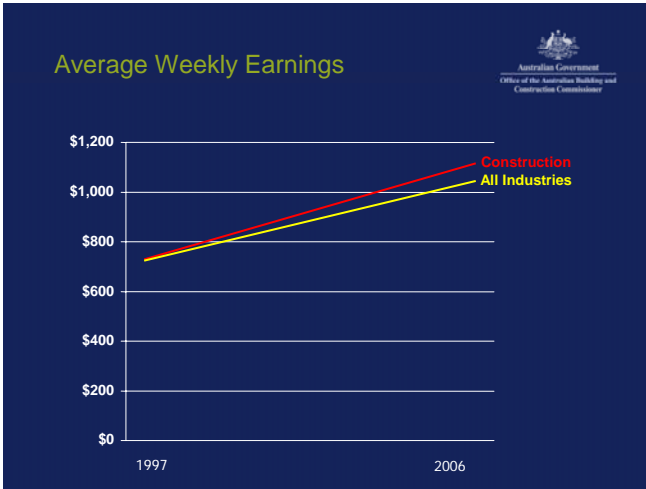
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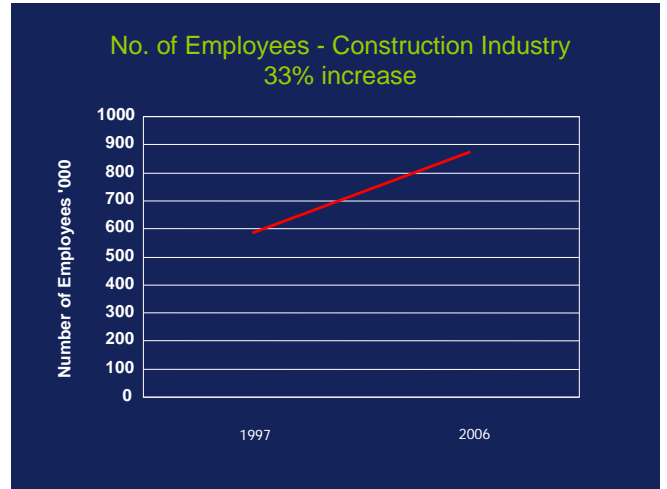
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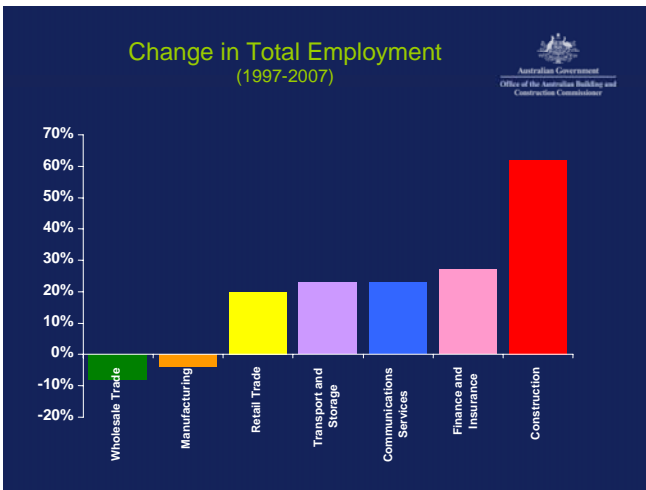
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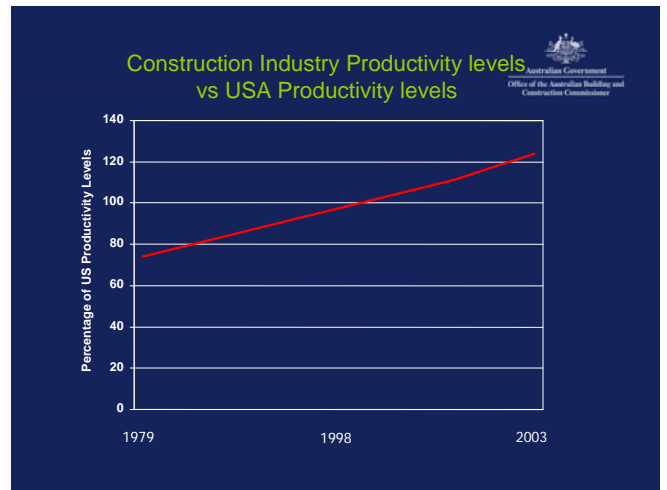
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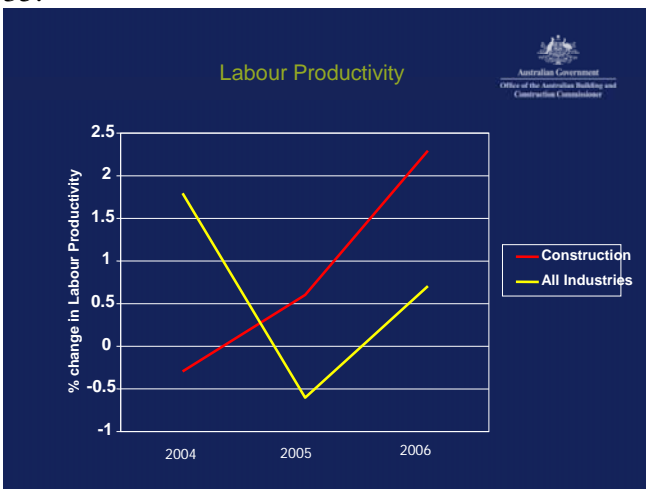
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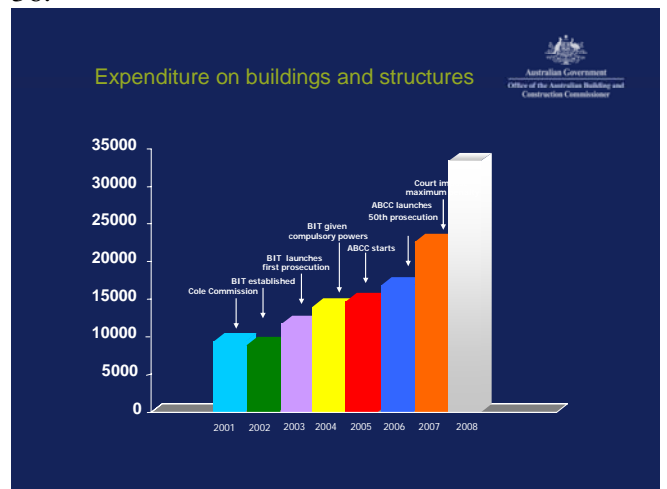
34.



35.



36.



37.

How can the ABCC help?

- website
- hotline
- hide behind the ABCC
- education material
- legal advice
- seminars
 - executive
 - site personnel



38.

Questions

Hotline

1800 00 33 38

7 am – 7 pm
(Monday - Friday)

Website

www.abcc.gov.au

