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PRESIDENT
Sharan Burrow

SECRETARY
Greg Combet

The Secretary
Parliamentary Joint Committee on Corporations and Financial Services
Suite SG.64
Parliament House
CANBERRA ACT 2600

8 April 2005

Dear Secretary,

Re: Corporations Amendment Bill (No 2) 2005

The ACTU welcomes the opportunity to contribute to the process of ensuring improved governance and social practices of corporations. Unions see this as one of the major factors influencing the job security and retirement incomes of working people, as well as the living standards and amenities of the whole community, in Australia and internationally.

Many of the measures in the Corporations Amendment Bill (No 2) 2005 ("the Bill") will facilitate shareholder participation in the governance of the companies in which they are invested, and will enhance corporate accountability.

The provisions of the Bill that are supported by the ACTU are:

(a) The reduction in the threshold allowing members resolutions to be brought to scheduled company AGM's. (Section 249N);

(b) The reduction in the threshold for the distribution of members statements by the company along with the notice of meetings (Section 249P); and

(c) The provisions to facilitate electronic circulation of members resolutions and members' statements (Section 249O and 249P).

These provisions will enhance the capacity of minority shareholders to submit resolutions to the ordinary meetings of the company, while providing companies with a means to reduce costs through the electronic distribution of material.

The ACTU notes that there is some opposition to the reduced threshold for the submission of resolutions to company AGM's. The basis of this opposition appears to be that dealing with such resolutions takes time that could otherwise be devoted to other issues. This doesn't appear to be an insurmountable problem, which can be addressed through the adoption of meeting procedures which limit the time devoted to items.

Special general meetings

The ACTU opposes the removal of the 100-member rule from Section 249D of the Act, which would leave the 5 per cent rule as the sole threshold for the initiation of extraordinary general meetings. In our view this places an unnecessarily high burden on shareholders seeking the urgent resolution of a matter.

The ACTU acknowledges the legitimate concern of business to manage the costs (in terms of money and human resources) to companies in the calling and hosting of special or extraordinary general meetings of shareholders, and that these should not be arranged to address frivolous matters.

Nonetheless it is our view that the 100-member threshold constitutes a significant hurdle, which gave companies sufficient protection against meetings being called on frivolous or vexatious grounds. We note that, in the context of resolutions, a coalition of investors and company interests was recently reported as saying that:

> *Having 100 members is enough of a threshold to make it difficult for minorvested–interests, special interests, aggrieved employees and aggrieved customers to get a resolution.*[1]

The five per cent rule effectively dis-enfranchises small investors for 11 months of the year. While larger investors have access to company management, particularly through their research processes, many minority investors lack access to company management.

If a 100 investor threshold is considered inappropriate because it pays no regard to company size, then an alternative threshold based upon the number of entities holding shares would be preferable, and would cater to small investors whose interests may be materially different to larger investors.

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[1] *Business campaigns against AGM Changes*
ttp://www.theage.com.au/articles/2005/03/29/11118623874780.html March 29 2005

Proxy voting

While the ACTU does not oppose the amendments to section 250A(4) and (5), it is our submission that they do not go far enough in ensuring that proxy votes are voted in accordance with the directions of the beneficial owners of the shares.

Disclosure

The ACTU has some concerns about the proposed deletion of Section 323DA of the Corporations Act, and submits it should be retained.

While the ASX should be the primary body responsible for determining the disclosure obligations of Australian listed corporations, it is none the less an important additional safeguard that corporations also disclose any information required of them by foreign stock exchanges. Foreign regulators are best placed to understand materiality of the information required.

It is our view that many shareholders do not have access to information that is disclosed to foreign securities exchanges. As it is not a significant burden upon corporations to disclose information in Australia that is required of them by foreign regulators, the ACTU submits that on balance Section 323DA should be retained.

Yours sincerely,

CATH BOWTELL
Industrial Officer