



Special Minister of State
Minister for Commerce
Minister for Industrial Relations
Minister for Ageing
Minister for Disability Services
Assistant Treasurer
Vice President of the Executive Council

Ref: 05DOC0439

Senator Gavin Marshall
Chair, Employment Workplace Relations and
Education Legislation Committee
Parliament House
CANBERRA ACT 2600

15 AUG 2005

Dear Senator Marshall

Attached please find a submission on behalf of the NSW Government to your Committee's Inquiry into Workplace Agreements.

The attached submission points out that:

- At present agreement making is the centrepiece of the federal workplace relations system, however, primacy is given to individual bargaining rather than collective. Although AWAs play a role, they currently only cover 2-3 per cent of the workforce. Even so, it is now stated federal government policy that AWAs are an integral part of a modern economy and part and parcel of a flexible, productive workforce.
- A significant number of employees fall outside the bargaining stream and rely on safety net reviews because they are unwilling or unable to bargain. These are most likely to be low paid employees with low skill levels – women, young workers, casual workers, workers in regional areas and so on.
- It is important for the industrial relations systems to recognise that some workers may not be able to bargain because they are not employees at law, despite being in an 'employee like' relationship, and being in a weak bargaining position. The current NSW system actively recognises the difficult position of these workers, and allows them to bargain by means of such measures as the deeming provisions in the *Industrial Relations Act 1996* and Chapter 6 of the same Act, which deals with workers who operate as public vehicles and carriers.
- The WR Act fails to provide employees with a specific, genuine opportunity to choose the type of agreement they want and fails to back up employee choices about the type of agreement they want – even if the majority state that they want, say, a collective agreement, the employer is under no obligation to accept that choice.

- The current federal bargaining system has difficulty delivering family friendly outcomes, as recognised in the recent Family Provisions Test Case. The changes now proposed by the Commonwealth promise to make these difficulties greater, not least by restraining the powers of the AIRC and creating an emphasis on individual bargaining.
- As well as this, the advent of a unitary system would efface important gains for women and families provided by the NSW system, such as pay equity and minimum conditions.
- How much, or whether, enterprise bargaining has contributed to productivity since its introduction into Australian industrial relations jurisdictions in the early 1990s, is a moot point. How much individual agreements such as AWAs have contributed is, in our submission, even less clear.
- The New Zealand experience suggests that the further deregulation and/or individualisation of bargaining now being proposed by the Commonwealth is unlikely to deliver the productivity outcomes claimed.
- In the NSW Government's submission, there are no compelling reasons to believe that the changes proposed by the Commonwealth will deliver the 'new burst of productivity' of which the Prime Minister is confident.
- Of particular concern to the New South Wales Government is the intention of the Commonwealth to forcibly extend its industrial agenda upon New South Wales under the banner of a 'unitary system'.
- The current NSW system is fair and efficient and it keeps industrial conflict to a minimum. To replace it with the conflict ridden, and inefficient federal system, or worse, can only be seen as a disaster for NSW workers.

Should you require any further information or clarification of issues raised in the submission, please contact Mr George Petrovic at the Office of Industrial Relations in the Department of Commerce on (02) 9020 4622 or by e-mail at George.Petrovic@oir.commerce.nsw.gov.au .

I trust that this submission will receive due consideration by the Committee. I look forward to reading your Committee's report.

Yours sincerely



John Della Bosca MLC