

Submission

to

Senate Employment, Workplace Relations and Education
References Committee

Inquiry into unfair dismissal laws

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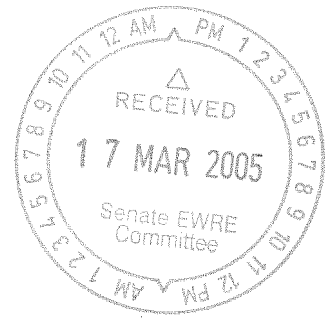
MEDIA ENTERTAINMENT AND ARTS ALLIANCE

TO THE

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES
COMMITTEE**

INQUIRY INTO UNFAIR DISMISSAL POLICY IN THE SMALL BUSINESS SECTOR

MARCH 2005



The Media Entertainment and Arts Alliance

The Media Entertainment and Arts Alliance (Alliance) is the industrial and professional organisation representing the people who work in Australia's media and entertainment industries. Its membership includes journalists, artists, photographers, performers, symphony orchestra musicians and film, television and performing arts technicians.

The Media Entertainment and Arts Alliance made submission to this inquiry into unfair dismissal provisions for small business.

The Alliance hopes the Committee will allow us the opportunity to make additional comment.

The Alliance does not, as set out in our earlier submission, support the establishment of two classes of employee based on the size of the workforce of their employer. However, in the event the legislation is amended, the manner in which the term small business is defined will be crucial.

The Alliance represents many people in the entertainment industry who work for differing sized employers. Importantly, the size of the business may also vary dramatically during the course of a production.

For instance, a film production or television series may start with as few as two people. During early pre-production the number of employees may rise to a handful and increase with the commencement of what is known as official pre-production to between five and ten persons rising through the course of preproduction to anywhere upwards of 40 employees. During production the number of employees will increase further and vary from day to day depending on the requirements of the individual production as new scenes are filmed each day. During postproduction the number of employees will reduce as production personnel finish their engagement and postproduction personnel are engaged to augment the picture editing crew. During part of the postproduction period, the number of employees may be as few as two and at other times it might be ten or more.

In live theatre, the numbers of employees might be steady at between two to ten depending on the size of the company with the numbers increasing during rehearsal periods, set construction and then levelling out during performance periods.

For some major companies, for instance, Cirque du Soleil, the numbers of employees can range from five to 400 depending on the phase of production.

It is therefore important to our members how small business is defined as currently the proposal is to define small business as one employing less than 20 people. For our members, it would indeed be unfortunate if an unfair dismissal claim could be denied simply because on the week the subject of the dismissal the production had reached a point wherein the number of employees fell below 20 when a matter of a week or more earlier the number of employees might have dramatically exceeded 20.

Further, it is important that when accepting an engagement employees have certainty about their future rights. The Alliance considers it would be unreasonable that a right assumed at the time of accepting and commencing employment could be withdrawn solely because the size of the workforce drops below 20.

The Alliance hopes that the Committee will take the above comments into consideration during its deliberations.