Submission to the Australian Senate "WorkChoices" Inquiry November 2005
From Guy van Enst, Employee Relations Practitioner, Mildura, Victoria

In reference to the Australian Government single-page advertisement titled "MORE JOBS/HIGHER WAGES/A STRONGER ECONOMY", published in The Age, 9 July 2005:

As a citizen, I object most vehemently to the federal government using public funds to harangue me and my fellow citizens with advertising that appears to me indistinguishable from partisan electioneering propaganda. Given that, apart from election time, "ordinary" Australians can have little practical influence on the legislative process, which in the usual course of events is dependably discussed by our (presently) free media, and the fact that the advertisments fail to invite submissions to the very brief (for such a revolutionary set of reforms) Senate Inquiry, I can only surmise that the advertising campaign is designed to calm workers who might otherwise be drawn to engage in protest, and to keep voters who are susceptible to soothing messages to remain on side with the Government that increasingly pleads "trust us".

My specific objections to the content of the advertisement, informed by my professional expertise in industrial relations, include the following:

The first section, **A Stronger Australia**, cites increases in real wages and job numbers without any of the sort of contextual or qualifying data, or citing of expert opinion, that might establish a formal case in support of the advertisement's principle claims.

The second section states **"It is important that you know what is, and isn't being proposed and why"**, but fails to establish an argument why "it is important", other than implicitly to trust the government and reject the nay-sayers.

"Protected conditions include: 4 weeks annual leave". If we are dealing with the real world, this is patently false. The proposed legislation provides for two weeks with the remainder subject to the employee offering to "trade". Unless employees within an enterprise act as a group to resist an employer intent on such a trade, any unwilling individuals immediately place themselves at risk of dismissal and replacement by a more "flexible" recruit. There can be no protection in the absence of a sanction for breach.

"Protected conditions include: a maximum number of 38 ordinary ordinary working hours per week". This is grossly misleading at best. With no protection in the legislation either of ordinary-hour wage rates (above a minimum, which is destined to reduce in real value), overtime rates, public holiday loadings or night-work or shift allowances, or the awards which traditionally cover such detail, the standard 38-hour week worked over 5 days in daylight hours (the existing technical meaning of "ordinary hours") becomes little more than a figment.

"Awards will not be abolished." In practice, employers will have the power under the new Act to unilaterally declare an award ineffectual after its expiry date. The proposed amendments mark awards for extinction.

"Our plan to protect against unlawful dismissal" What plan? Unlawful dismissal is already provided for in legislation. Nothing has changed. (I expect that many cases of a type that are presently initiated under unfair dismissal provisions will readily be converted by lawyers to the unlawful dismissal jurisdiction, thus negating the questionable advantages of abolishing unfair diamissal)

"It will remain unlawful for workers to be forced to sign an AWA or be sacked for refusing to sign an AWA." Misleading. In practice, an employee is left with no real choice after the expiry of an award that their employer ceases to recognise. As for new employees, employers have since 1996 been advertising positions as subject to an AWA. This provision is little more than symbolic.

Unfair dismissal This is dealt with, misleadingly, under the unlawful dismissal paragraph heading. The statements made in defence of (all but) abolishing the unfair dismissal protections has no credibility as the objective economic argument for which readers are intended to take it, being framed from a purely partisan perspective. Whether such an argument validly exists is a separate matter.

Workers on AWAs currently earn 13% more than workers on certified agreements, and 100% more than workers on award rates These claims are statistically and factually meaningless without reference to the industries and occupations in which they are measured.

The fair pay and conditions standard Orwellian gibberish that is intended to disguise the stripping away of present-day minimum standards, as specified in the fine print. To be read as "go back to this line and start crawling".

The overwhelming impression with which I am left concerning the intentions and content of the proposed legislative changes, is of a vision of a new paternalistic industrial feudalism. Nothing in the Government's statements satisfy the basic standard of even an undergraduate argument based on evidence. The claims of benefits arising from the proposed legislation remain in my view mere propaganda, until such a standard is met and exceeded. The Australian public is being misled, in more than one sense.