

Submission

to

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Legislation Committee

Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

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1 INTRODUCTION

This submission is made by the Business Council of Australia (**BCA**); an organisation representing the Chief Executive Officers of 100 of Australia's leading companies.

Collectively, these companies employ nearly one million Australians, generate \$340 billion in our economy, produce 30 per cent of Australia's exports and are responsible for a significant share of Australia's interaction in global markets through trade and investment flows.

A key focus of the BCA's work is developing and advocating a policy reform agenda aimed at locking in Australia's economic prosperity. The reform agenda is built on four key planks, namely a reduction in business related red tape, lowering taxation, improving infrastructure development and provision and greater flexibility in workplace relations.

The BCA's policy agenda focuses strongly on building the foundations for sustained economic growth as the basis for achieving ongoing prosperity. Business clearly has a vested interest in such reform; strong economic growth is good for business. But a vibrant, competitive and profitable business sector is also good for Australia, delivering jobs and income growth, higher tax revenues and better investment returns for shareholders and superannuation funds.

In developing its priorities for workplace relations reform, the BCA's objective is to promote reforms that:

- support high levels of job creation;
- maximise the opportunities for individuals to participate in the workforce (and hence benefit directly from economic growth); and
- are consistent with sustained strong productivity growth.

Strong economic growth can be achieved by creating workplace environments where people are supported in working to their full potential, are accountable for their performance and rewarded for the contribution that they make (ie for effort and capability). It is only through sustained strong productivity growth that sustained strong growth in real incomes and wages can be achieved.



More generally, the aim of the BCA's workplace relations priorities is to ensure that Australia's business sector has the flexibility and capacity to sustain high levels of employment and income in the face of:

- population ageing and slower growth in labour supply;
- emerging competitive pressures; and
- fluctuating economic circumstances (both domestically and internationally).

To support higher levels of workforce participation and employment among mature-aged individuals, women, and younger unskilled individuals in particular, the BCA considers that greater flexibility in the range of employment options is required. Business must have the capacity to develop tailored solutions, with their employees, to address matters like work-family balance, phased retirement and increasing employment opportunities for people with disabilities. One-size-fits-all policies are not the solution to supporting greater diversity in workforce participation and employment.

In increasingly competitive markets, and in terms of a more diverse domestic economy, it is less and less likely that uniform terms and conditions of employment are able to address the circumstances of individual enterprises and their employees. Furthermore, Australia's competitive advantage in global markets will increasingly rely on the production of higher value-add goods and services. This in turn means that companies will increasingly rely on diverse, innovative, skilled labour input as a source of such competitive advantage. Again, greater diversity and flexibility in employment options and terms and conditions are required to enable business to attract, reward and retain such skilled workers.

This submission summarises the key aspects of the BCA's *Workplace Relations Action Plan*. The *Workplace Relations Action Plan*, together with backing economic research undertaken by Access Economics, was released by the BCA in February of this year (for a copy, see www.bca.com.au.) This submission reinforces the economic importance of workplace relations reform.

In considering the Workplace Relations Amendment (WorkChoices) Bill 2005 the BCA notes that it provides:

- employers and employees with the ability to reach working arrangements that suit their needs whilst ensuring a regime of minimum protections for all employees;
- a national workplace relations system removing the duplication, cost and complexity of overlapping Federal and State workplace regulatory systems;



- a primary focus on agreement making at each workplace rather than the maintenance of the outdated award processes underpinned by the compulsory arbitration system;
- a process of minimum wage setting which recognises the economic implications of wage decisions and their impact on the unemployed; and
- clarity with regard to the roles and accountabilities of all stakeholders in the system whether employers, employees, unions or statutory bodies.

2 THE BENEFITS OF PAST REFORM

Before outlining the BCA's reform priorities, it is important to note that the BCA's workplace relations agenda is based on an understanding of the economic benefits of reform, and aims to build on the benefits of past reforms.

Research conducted for the BCA by Access Economics shows that labour market reforms implemented since the mid-1980s resulted in over 300,000 more people being in jobs in 2004 than would have been the case otherwise and the unemployment rate being 5.8 per cent in that year, compared with 8.1 per cent had labour market reforms not been undertaken. Of course the unemployment rate has fallen further since that time. Lower unemployment and growth in real wages have supported higher levels of workforce participation. Details of the economic benefits of labour market and other reforms can be found in the BCA's recently released publication, *Locking in or Losing Prosperity: Australia's Choice*, (see www.bca.com.au.)

Research by Access Economics has also shown that reforms to workplace relations policies have boosted the pace of productivity growth, largely by linking wages more closely to enterprise-level performance and productivity. Access Economics concludes that the sectors with the most flexible workplace arrangements have seen the fastest productivity growth – that is, there is a positive relationship between greater decentralisation and productivity growth. Moreover, Access Economics notes that the absence of Federal enterprise/AWA agreements over the period from 1994-2002 could have reduced productivity growth by 0.8 per cent per year¹. The Access Economics analysis is contained in their report '*Workplace Relations – the Way Forward*' and is available on the BCA website www.bca.com.au.

¹ While the Access Economics equations estimating productivity growth on the basis of workplace relations policies alone leave a lot of Australia's improved productivity performance unexplained, the impact of workplace relations policy changes is statistically significant in explaining part of the rise in productivity observed. In addition, the Access results are consistent with those estimated and reported by the Federal Treasury.



The experience of BCA Member companies has been that greater flexibility in agreement making, and specifically the ability to better align performance with terms and conditions, has resulted in diverse benefits including:

- high levels of, and strong growth in, productivity;
- greater employee participation and job satisfaction;
- greater shared focus on skills development which supports improved business performance;
- greater innovation; and
- reduced workplace injuries and accidents through greater accountability for such outcomes.

In other words, there has been an observed cultural change with individual employees becoming more accountable for their performance and enterprise outcomes. The benefits for employees have been higher wages, while the benefit to shareholders and superannuation funds has been high returns. This is clearly evident in Australia's globally competitive mining sector, where around 50 per cent of employees on Federal agreements are on Australian Workplace Agreements (AWAs)².

3 GUIDING PRINCIPLES OF AGREEMENT MAKING

The BCA believes that employers and employees are best placed to determine workplace arrangements that most effectively suit each other's ongoing needs. Enterprise-based agreement making, whether individual or collective, must form the core of Australia's workplace relations system. Accordingly:

- agreement processes and outcomes should be subject to minimal regulation/intervention from outside parties; and
- agreement processes should support strong ownership of bargaining outcomes for both employees and employers.

In many ways, the BCA considers that the current system of workplace relations is a long way from these guiding principles.

² See *BCA Workplace Relations Action Plan for Future Prosperity*. (2005)



4 AWARD SIMPLIFICATION

Overly complex operationally detailed and prescriptive awards remain at the heart of Australia's system of workplace relations. No other country in the world has such a complex system of minimum wages/conditions. This inhibits the development of more flexible workplace arrangements that best suit the ongoing needs of employers and employees at individual workplaces. Awards are highly legalistic and contain a high degree of specificity about many matters that are not core to the employment relationship. Because of the degree of prescription, awards provide little scope to differentiate arrangements with individual employees in response to their role, efforts, capabilities and requirements. The complexity of the award system means that many individual employment relationships are still determined by an award where businesses do not seek to engage in the development of collective or individual agreements.

The BCA considers that further award simplification (through a reduction in allowable matters and consolidation in the number of awards) will send a clear signal to employers and employees to take more responsibility for determining the terms and conditions of employment. In other words, simplification will create greater incentives to bargain and to adopt more flexible agreements consistent with sustained high levels of employment and the ongoing needs of employers and their employees.

5 SIMPLIFICATION OF THE NO-DISADVANTAGE TEST

Awards play a fundamental role in the workplace relations system as the benchmark for application of the no-disadvantage test. This means that **all** agreements within the current system remain tied to the complex system of overly prescriptive and legalistic awards. The vast majority of awards go well beyond setting a safety net of core employment conditions. The BCA therefore considers that they do not provide an appropriate foundation – through the no-disadvantage test – for all other agreements.

The complexity and prescription of awards makes application of the no-disadvantage test difficult and time consuming and limits the flexibility and individual workplace relevance able to be achieved through agreement making. In short, businesses are deterred from seeking more flexible agreements by the rigidity of the underlying awards.



The BCA considers that there would be a higher uptake of more flexible employment agreements if the no-disadvantage test applying to AWAs and certified agreements was assessed against a less restrictive set of requirements.

Specifically, the no-disadvantage test should be applied against a standard set of statutory minimum requirements.

The BCA believes that a higher take-up of more flexible arrangements, better targeted at the enterprise level, would support a further lift in the level of productivity as well as more innovative and dynamic processes within the workplace, consistent with ongoing productivity growth. In other words, the benefits would be consistent with that observed from past reforms – higher employment and lower unemployment, coupled with stronger productivity growth which in turn is the basis for sustained growth in real wages and incomes.

6 AUSTRALIAN WORKPLACE AGREEMENTS (AWAs)

The advent of AWAs has been a positive development in workplace relations policy in Australia. While they represent a small proportion of total agreements, they have played an important role in driving greater flexibility and improved enterprise productivity and performance in key sectors of the economy.

That said, there are considerable administrative and compliance burdens associated with filing and approval processes. As these processes apply to each individual AWA, large employers in particular can incur significant costs. More generally, these complexities can deter the adoption of AWAs.

The BCA considers that:

- processes for filing and approval should be streamlined;
- the life of AWAs should be extended;
- AWAs involving remuneration in excess of the top income tax threshold should be exempt from the no-disadvantage test; and
- there should be appropriate processes in place to ensure all employees (and employers) understand their rights and obligations in respect of AWAs.



7 CERTIFIED AGREEMENTS

The BCA considers that changes to processes around certified agreements could also enhance their effectiveness.

As a matter of principle, the BCA considers that the requirement for third-party certification of a collective agreement that has been reached voluntarily, is supported by the majority of employees, and around which there is no dispute, is questionable and unnecessary.

Where the majority of employees endorse an agreement and where there is no dispute, the BCA considers the agreement and signed statutory declarations from each party should be lodged with the Australian Industrial Relations Commission (AIRC) or Office of the Employment Advocate (OEA – see below) as a matter of record. The only role of the AIRC/OEA would be to confirm the agreement meets the no-disadvantage test.

Consideration should be given to allowing collective agreements to be lodged with either the AIRC or the OEA (ie it is a matter for the parties involved to determine). This would remove perceptions that there are different standards applied for different forms of agreements and increase the contestability of the AIRC's service deliver functions.

Finally, the terms and conditions of a collective agreement should not limit the agreement making options of future employees.

8 SOCIAL OBJECTIVES AND WORKPLACE RELATIONS POLICIES

The BCA considers that individuals should be supported in working to their potential and rewarded according to their capacity and contribution to enterprise performance.

Unlawful discrimination is not condoned in any way and is inconsistent with employers ensuring that they are able to attract and retain the best employees possible.

Where wage or income outcomes are seen to be inconsistent with broader social objectives related to views on distributional equity/fairness and living standards the BCA considers that the best, and most direct, possible outcome is achieved through the tax and welfare transfer system. In other words, consideration needs to be given to the interaction of earned income, taxation and welfare benefits and how these can be designed and targeted to deliver the social objectives sought.



Workplace relations policies are best targeted at achieving and sustaining high levels of employment and productivity growth.

9 A NATIONAL SYSTEM OF WORKPLACE RELATIONS

A national system of workplace relations will reduce the regulatory burden facing the many enterprises operating across jurisdictions and the administrative cost to Federal and State Governments associated with the operating multiple distinct systems.

Voluntary resolution of this situation through the referral of powers would be the preferred approach to attaining a national system of workplace relations.

10 REFORMING THE SAFETY NET WAGES PROCESS

Research shows that unemployment and non-participation in the labour force are the most important predictors of household poverty. This factor needs to be recognised when minimum wage rates are set. Minimum wages should be determined by a body comprised of people with sufficient expertise and appreciation of the employment market and factors influencing people's employment prospects to guide the determination of minimum wage increases. A key factor in this determination should be the employment prospects of the unemployed.

11 CONCLUSION

The BCA's strong view is that past workplace relations reforms, in particular greater decentralisation and the increased focus on enterprise-level bargaining, and the changes to support this have delivered significant benefits to Australian employees and employers, and the economy more broadly. This is evident in Australia's record of strong productivity and wages growth, record low unemployment rates, high rates of corporate profitability and competitiveness, and high returns to shareholders and superannuation funds. These outcomes stand in stark contrast to many of the concerns raised at the time reforms were introduced.

While past workplace relations reforms have delivered significant benefits, the BCA considers ongoing workplace reform is required to lock in prosperity for the long term.



This submission highlights the reforms advocated by the BCA which would enable Australia to build on the benefits of past policy changes and lock in economic growth and prosperity. In the face of population ageing and intense global competition, Australia will not be able to sustain robust economic performance without further reform. Standing still on reform will see us go backwards in terms of the economic outcomes to which many Australians are now accustomed.

These views are confirmed by research undertaken by Access Economics that estimates the potential benefits to Australia over the next 20 years of embarking on a reinvigorated reform agenda, of which workplace relations must form one part, as summarised in the BCA's *Locking in or Losing Prosperity* paper cited earlier.

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