Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

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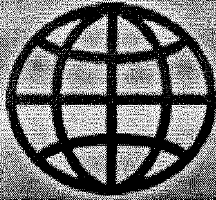

The Small Business Union

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8 November 2005

Secretary
Senate Employment, Workplace Relations and Education Committee
Department of the Senate
Parliament House
Canberra ACT 2600
Australia

Re: Submission to the inquiry on the Workplace Relations Amendment (Work Choices) Bill 2005.

We write to you on behalf of all the employees in all the businesses in Australia who have already implemented AWAs for their employees.

It would appear that the Workplace Relations Amendment (Work Choices) Bill 2005 will cause unnecessary complications for the ten to twenty thousand companies across Australia who have pioneered the implementation of Australian Workplace Agreements (AWAs) unless the same conditions of employment covering existing employees under a pre-reform AWA can be applied to new employees under a post-reform AWA.

For example, if existing employees have a clause in their AWA allowing for a cash component in their hourly rate in lieu of receiving paid sick leave, as well as the option to cash up their full annual leave entitlement, it will cause dissension in the workplace if new employees receive 10 days paid sick/carer's leave and are only able to cash up 2 weeks of their annual leave. The net affect of this would be that every existing employee would have to have their hourly rate reduced by the, say, cashed up component of the sick pay - this is just one example.

It is grossly unfair on both the employers and the existing employees in all of the thousands of businesses who have converted to AWAs to now be in the situation, which isn't being foisted on any other businesses in the land. Every other business effectively has no change to its employee/employer agreements unless the parties agree (dismissal issues aside). However, every one of the 10 to 20 thousand businesses who have their staff on AWAs now will be forced to change their existing arrangements the moment they employ some one new after the new legislation is introduced.

The government will be penalizing the very people who, quite often against trenchant opposition, have done what the Government asked them to do in the first place.

Everyone in business knows that you cannot satisfactorily have two sets of workplace rules for the people doing the same work, and as the new legislation mandates certain minima, whether wanted or not, commercial considerations virtually demand that the existing arrangements will have to be changed.

This problem will be compounded because before any new post reform AWAs can be lodged; administrative processes will need to be developed by the OEA. The OEA is an arm of the public service. As well meaning and diligent that its officers are, this is unlikely to happen overnight. These existing AWA using businesses will need to lodge documents from the very day the new legislation applies.

So not only will these pioneering businesses who have already paid lots of money and expended huge effort to have their existing arrangements implemented, they will now most probably have to reissue all of their existing employees with new AWAs.
The administrative processes to do so most probably won't be available. Even if they are, the new forms of documentation, which best replicates, the existing workplace arrangements will need to be developed. This is not a cost free exercise. The new arrangements will need to be introduced to the existing workers. Again a replication of costs already outlayed and effort already made.

Although "**Section 101C Calling up content of other documents**" appears as though it may allow for a Workplace Agreement to incorporate terms from an existing Agreement, this is wide open to subjective interpretation and needs clarification. For instance enquiry of your hotline elicited the response that all new AWAs irrespective of whether the business had existing AWA templates in place, would all have to be in the new format. This clearly contradicts what Section 101C might be suggesting.

This issue is crucial to both the employees and employers who supported the initial Government imitative. We believe these people would not want any particular favouritism, although by any measure they deserve it, however unless this particular section is amended or an unequivocal Ministerial directive is announced (preferably both) then every single one of them will most probably be disadvantaged by your reform initiative.

We humbly submit on behalf of all these businesses and their hundreds of thousands of employees that if a company has existing employees under a pre-reform AWA, the same conditions of employment as specified in the pre-reform AWA should be able to be applied to any new employees under a post-reform AWA at least for the notional period of (say) three years.

We are available to address the committee on this matter and advise on equitable transitional mechanisms.

Regards,

Graeme Haycroft

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