Submission

to

Senate Employment, Workplace Relations and Education Legislation Committee

Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

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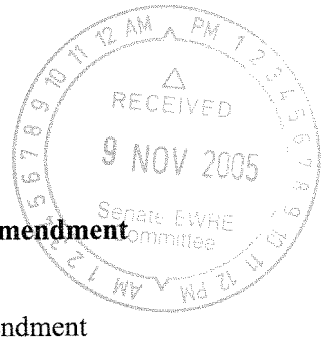

Submission to the Senate Inquiry on the provisions of the Workplace Relations amendment (Workchoices) Bill 2005

I am concerned that the package of changes proposed in the Workplace Relations amendment Workchoices Bill 2005, will adversely affect many Australian workers. These industrial relations changes have the potential to lead many workers to receive less pay, and to lose entitlements and conditions such as penalty rates, public holidays, overtime and meal breaks. As a result of these changes many Australian workers will have less time to spend with family and friends due to increased work demands. The change to the way the minimum wage is set has the potential to reduce the real value of the minimum wage, and lead to the creation of an underclass of working poor to Australian society. The economic benefits of this package of changes are arguable. The remainder of this submission outlines my specific concerns with particular aspects of the Workchoices package.

No mandate or strong argument for these changes

The government did not go to the 2004 election with this industrial relations package as part of its re-election campaign. Given widespread community opinion against these changes, it is difficult to imagine that the Australian public would have given the government control of the senate if the public had been aware of these proposed industrial relations changes at the time of the election. The government only made public its intention to make these changes in May of this year, with the full detail only becoming apparent in the past couple of weeks. I do not believe that the government has secured a legitimate mandate for this package on industrial relations changes.

There has been no powerful or convincing argument made for the necessity of these changes. Rather the government has made glib broad-brush statements about Australia not being able to stand still, and needing to secure Australia's future prosperity through changing the industrial relations system. The precise economic benefits of these changes have not been made clear.

The government also claims that productivity will increase as a result of these changes. Labour productivity is measured as output per hour worked. The sources of increased labour productivity are generally new technology, a more skilled workforce, and efficiency and innovation. These industrial relations changes may result in many workers being paid less (due to possible losses of penalty rates, overtime etc), but that does not mean they will be any more productive. Workers will not produce any more output per hour just because they are getting paid less. These industrial relations changes may increase business profitability, but this is different to an improvement in productivity.

The enhancement of the international competitiveness of Australia is another reason given by the government for these changes. The government appears to believe that Australia should compete with China and India on labour costs. The government thinks that as wages and living standards in China and India continue to rise that Australian wages will meet them on the way down. I think that Australia should be trying to compete with these countries on the basis of innovation and quality not labour costs.

Fair Pay and Conditions Standard and the removal of the no-disadvantage test

The proposed Australian Fair Pay and Conditions Standard protects only five minimum conditions (minimum wage, maximum ordinary hours of work, annual leave, personal/carer's leave, and parental leave). These conditions are far fewer conditions than currently covered by awards. With the abolition of the no-disadvantage test which ensured that overall workers were no worse off under individual/collective agreements than the award, there is the potential for many workers to end up on individual agreements that contain inferior pay and conditions than

they currently enjoy. This is particularly so for workers in industries such as hospitality, where a high proportion rely on awards (over 60%) and the provisions within awards such as penalty rates. I am concerned that women may also be adversely affected, as just over a quarter (26.4% according to 2004 ABS figures) of female employees rely on awards.

Minimum wage and the Fair Pay Commission

I do not believe that the Fair Pay Commission, whose membership will be heavily biased toward business people and economists will achieve fair pay outcomes for employees who rely on the minimum wage. I think the government is disingenuous in claiming that the Fair Pay Commission will be a "totally independent wage setting body".

In the United States, the congress votes for the minimum wage. The minimum wage in the United States was last increased in September 1997 from $4.25 to $US5.15 ($AU6.80). Full-time workers who rely on this wage in the United States are unable to meet basic living needs, as the wage has not kept pace with inflation.

Minimum wages in Australia would be $50 less per week than the current $484, if the Australian Industrial Relations Commission had accepted the government case at each living wage case over the past ten years. The government appointed Fair Pay Commission is certain to award lower increases to the minimum wage than the AIRC currently does. It is quite possible that the real value of the minimum wage in Australia will fall, and that workers relying on it will face a similar predicament to low paid workers in the United States.

Australian Workplace Agreements and the undermining of collective bargaining

Australian Workplace Agreements (AWAs) have been unpopular with only 2.4% of the Australian workforce currently having their pay and conditions set by an AWA. In contrast, collective bargaining continues to be a popular mechanism for setting pay and conditions. This is particularly so in the public sector. According to ABS employee earnings and hours data (2004) 88.6% of public sector employees have their pay set by collective agreements.

The government promotes the idea that workers on individual agreements are universally better off in terms of pay than those on collective agreements. This is not correct. High level managers and administrators may have benefited from AWAs. However, for many employees collective agreements deliver better pay outcomes than individual agreements. ABS 2004 employees earnings and hours data showed that workers in industries such as mining, manufacturing, construction, transport and storage, education, and health and community services, who have their pay set by collective agreement, received higher weekly rates of pay than those on individual agreements.

Employees in occupation groups such as associate professionals, tradespersons, production and transport workers, and labourers and related workers on collective agreements received higher pay than those on individual agreements. Non-managerial employees on collective agreements received a higher hourly rate of pay than those on an individual agreement.

The purpose of Workchoices is to move more employees onto AWAs. The proposed changes in the Workchoices package will mean that accepting an AWA can be a condition of employment for prospective new employees. For current employees, an employer may decide to offer only an AWA once the current agreement (collective or individual) expires. The employer will not be obliged to negotiate a new collective agreement with employees. This has the potential to lead to AWAs being used to unilaterally impose inferior pay and conditions on a group of employees.

AWAs are promoted by the government as being an agreement negotiated between the employer and individual employee. AWAs are promoted as tailoring conditions to suit both parties needs and preferences. I think the reality is likely to be quite different.

In a large organisation, employers may offer identical AWAs (without ever negotiating the pay and conditions contained in the AWA with employees) to many or all employees. These AWAs may offer inferior pay and conditions to what employees currently enjoy. Without the no-disadvantage test, and with no onus on the employer to negotiate a collective agreement, the employee will have little choice than to accept the AWA or find new employment. The government agency Centrelink recently tried to get its staff to accept a generic AWA that offered inferior conditions.

According to ABS statistics, close to one in four people (23%) start a new job in one year. This means that potentially in a few years all of the Australian workforce may have no choice other than an AWA to set pay and conditions. I do not think that this represents the choice that the government so adamantly insists the Workchoices package offers.

I believe that the changes proposed in the Workchoices packed undermine the ability of workers to collectively bargain, a right protected by law in some countries, Canada being one example. I value being able to collectively bargain for my pay and conditions together with other employees. I believe that we receive better pay and conditions as a result of collective bargaining. I would be very disappointed if in future my only option was to accept an AWA.

Unemployed people and Workchoices
I am also concerned that unemployed people will be obliged to accept any offer of employment (or lose their government benefits), even when the job offered removes any entitlement to conditions such as penalty rates, public holidays, meal breaks etc. The government has an important role in assisting the unemployed to find work. However, I do not think that the solution is simply to make employing these people as cheap as chips, and create a system where the unemployed get jobs with inferior pay and conditions.

Removal of unfair dismissal laws for businesses with less than 100 employees
I am concerned about the removal of unfair dismissal laws (to apply to employees in organisations of less than 100 employees). I believe that the removal of these laws will disadvantage employees, and that there would be no real benefit in terms of employment generation. Dr Paul Oslington's (of Australian Defence Force Academy) recent study on *The Impact of Hiring and Firing Costs on Wages and Unemployment* concluded that the impact on employment due to the removal of unfair dismissal laws would most likely be minimal (around 6,000 jobs). The government has exaggerated the benefits by suggesting on the public record that 50,000 - 70,000 jobs would be created as a result of removing unfair dismissal laws.

I am also concerned that the Workchoices Bill allows an employer to dismiss an employee at any time for operational reasons. This would be particularly unfair in a situation where an employee dismissed for operational reasons was on an AWA that explicitly excluded any entitlement to redundancy pay.

Unfair assumption about bargaining power between employers and employees
I am concerned that the assumption underlying the whole "Workchoices" package is that employees and employers have equal bargaining power, and that all employees have sound negotiation skills. There are people in the workforce with poor literacy skills (who would have trouble reading and understanding the AWA put before them). There are people with a lack of

understanding of their current conditions and rights, who would be unable to judge how an AWA offered under the proposed system compares to their current pay and conditions.

There are teenagers who do part-time and casual work after school and on weekends, or who are entering the full-time workforce for the first time. I am sure that you would agree these children/young adults do not have equal bargaining power with their older and much more experienced employers. Many people (certainly everybody I know) prefers the certainty the current system offers, and are not at all interested in having to directly negotiate with their employer just to try and maintain parity with the pay and conditions that they enjoy under the current system.

Undermining the ability of unions to effectively represent their members
Under the Workchoices legislation there will be far more onerous restrictions on union officals entering a workplace. Union officals will not be allowed to enter workplaces where all workers are on AWAs. Workchoices will also forbid employers and employees agreeing to nominate that further collective agreements be negotiated by unions. The process (secret ballot conducted by independent party) required to take any kind of industrial action will be so complicated and time-consuming that the right to take industrial action is effectively removed. All of these provisions will have the effect of making it difficult if not impossible for unions to effectively represent their members. I think that this is unfair and undermines the principles of freedom of association.

Expensive, partisan and disingenuous advertising of Workchoices
I am disappointed that the government has spent such a large amount of tax payers money (in the range of $40-55m) on advertising the Workchoices package. I have seen the television advertisements and read the Workchoices booklet. I find both to be disingenuous in their representation of the Workchoices package. The government has used the advertising to give the distinct impression that the changes proposed are all for the benefit of employees. The pulping of an earlier edition of Workchoices booklets at the taxpayers' expense, so that a new edition of the booklet could have the work "fairer" inserted into the title is a testament of how far the government is determined to push this line.