Submission

to

Senate Employment, Workplace Relations and Education Legislation Committee

Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

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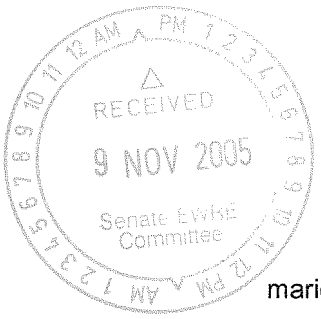

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INQUIRY INTO THE WORKPLACE RELATIONS AMENDMENT (WORK CHOICES) BILL 2005

The ACT & Region Chamber of Commerce of Industry is a membership based, not-for-profit organisation. As the largest and strongest Canberra based organisation representing local business, the Chamber's membership is diverse with involvement from a wide variety of business types and sizes across Canberra and the surrounding region.

In preparing this commentary on the proposed legislation, we have conducted a number of forums with representative sections of our membership. Three key issues have arisen that we would like to draw to the Senate Committee's attention. They are:

- Simplified Agreement Making;
- Cross border simplification; and
- Award simplification.

Simplified Agreement Making

As a partner with the Office of the Employment Advocate (OEA) for Canberra and the surrounding NSW region, we have first hand experience of the difficulties and complications experienced by businesses under the current system in lodging and waiting for the approval process for AWAs. In some cases we have seen AWAs take up to 9 months to be approved. Such a delay leaves that business operator in limbo for that period, wanting to adopt flexible and beneficial conditions for their employees, but having to instead abide by the relevant award until such time as the OEA issues an approval notice. The WorkChoices Bill details a much easier process for businesses to get agreements in place, with the AWA becoming legally binding on lodgement with the OEA.

Another area of the Bill that we believe simplifies and supports agreement making is in the reduction from 14 to 7 days of the employee's consideration period, which can be waived if all employees who would be covered by the agreement agree to do so in writing. We applaud this change as it acknowledges what actually occurs in workplaces, where the business operator and their employees discuss and consult during the entire period of developing the agreement. Many employees of our members have bemoaned the 14 day period as they have been keen to sign their agreements and have them lodged quickly in order to have access to their employment conditions which they have negotiated to suit their personal needs and desires. The WorkChoices Bill certainly simplifies this process and this is very welcomed by the business community we represent.

The move from the AIRC certification of collective agreements to the OEA lodgement is also strongly supported by our members. We have seen ridiculous demands made upon our members by the AIRC in relation to evidence and proof of consultation and the offer of union involvement in collective agreement making. The AIRC has forced small businesses (15 or less employees) to completely redo the consideration period because of a bureaucratic perspective that the consultation period has not been adequately advised to all employees. In workplaces of this size, where the boss eats lunch everyday with the employees, and workplace matters are discussed when they happen, where they happen – the stupidity and cost of bureaucratic imposition is a burden that defies logic and highlights the significant divide between the current system bureaucracy and the reality of the modern workplace.

Cross border simplification

The move to one national workplace relations system will have significant benefits for business of all sizes that operate in the ACT and surrounding NSW region. It is a constant concern at present for our members who work across the ACT/NSW border as to what jurisdiction they should adopt for their employees, with great variety occurring between the NSW state and ACT federal awards in almost all employment categories.

We have members employing over 600 employees who operate on a daily basis literally straddling the border, with staff that constantly move between the ACT and NSW in the performance of their work. These employers battle to find the best "fit" of conditions and pay rates for their staff across the state/territory boundary with the knowledge that at any time a NSW or Federal inspectator could challenge the way they pay their employees, purely on a different interpretation of the system rules as they currently stand in each jurisdiction. One set of rules for all workplaces is a very welcome change indeed from the perspective of our members.

Award Simplification

As a registered industrial party in the ACT, we are respondent to over 120 awards, for a population base of around 300,000, 40% of whom are public servants. This is nothing short of ridiculous and highlights the unwieldy and problematic nature of the current workplace relations system in this country. Furthermore it is a system that fails to offer real protection to employees (if you for a moment countenance the union's argument) in relation to wages and conditions.

There are numerous examples we could offer that show how the award system has failed to keep pace. There are many awards in the ACT that have not had a wage increase applied to them since 2002 – take the Theatrical Employees (Recreation Complex and Theme Park) Award 2002 – the adult wage under this award is below the federal minimum, yet it operates as a perfectly legitimate industrial instrument.

We believe the new Australian Fair Pay Commission (AFPC) pay and condition standards or scales will significantly simplify the system for those businesses that opt to stay under award coverage. We await the recommendations of the Award Review Taskforce, however we believe the WorkChoices Bill will greatly assist the award simplification process. We also support the removal of the AIRC and its often adversarial processes from the award setting arena. We consider that the AFPC consultative approach outlined in the Bill will be a far better process for deliberation of minimum pay and condition standards.

Overall, our members are looking forward to a new law that takes away the duplication of government regulation by different governments and departmental bureaucrats and supports workplace agreement and decision making by the primary players – the business owner and their employees.

Thank you for the opportunity to make this submission.

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