

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

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Submitter: Mr Christopher Platt

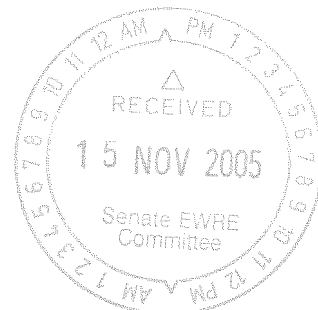
Organisation: Agribusiness Employers' Federation

Address: Level 10, 607 Bourke Street
MELBOURNE VIC 3000

Phone: 08 8212 0585

Fax: 08 8212 0311

Email: Christopher.platt@amma.org.au



Agribusiness Employers' Federation



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Submitter:	Christopher Platt
Organisation:	Agribusiness Employers Federation
Address:	Level 6, 42 Currie Street, Adelaide 5000
Phone:	08 82120585
Fax:	08 82120311
Email:	christopher.platt@aef.net.au

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1. Agribusiness Employers' Federation

The Agribusiness Employers' Federation was established in February 1948 by wool selling brokers operating in Victoria, South Australia and Tasmania as the Employers Association of Wool Selling Brokers and was registered as an organisation under the *Conciliation and Arbitration Act 1904* in the same year. In 1964 it adopted the name and the Constitution and Rules of the Australian Wool Selling Brokers Employers' Federation, an unregistered association which had been formed in 1960 comprising all the members of the National Council Wool Selling Brokers of Australia.

Having changed its name in July 2000, the Agribusiness Employers' Federation is the national non-farm national employer association for the Australian Agricultural industry and has represented the interests of Australia's major pastoral houses for over 57 years.

Agribusiness Employers' Federation members conduct business in over 700 service centres throughout Australia.

Agribusiness Employers' Federation members are involved in a wide range of industry sectors including:

- Agronomy
- Insurance
- Livestock
- Merchandise
- Purchase and sale of wool, cattle, sheep and other saleable goods
- Real Estate
- Rural Finance
- Wool (including further processing)

2. Subject matter of the Inquiry

1. The subject matter of the current inquiry was determined by a motion passed by the Senate on 12 October 2005.
2. The Senate Employment, Workplace Relations and Education Legislation Committee ('the Committee') has advised that it will not consider matters previously referred to, examined and reported on by the committee, namely;
 - secret ballots
 - suspension/termination of a bargaining period
 - pattern bargaining
 - cooling off periods
 - remedies for unprotected industrial action
 - removal of section 166A of the *Workplace Relations Act 1996*;
 - strike pay
 - reform of unfair dismissal arrangements
 - right of entry
 - award simplification
 - freedom of association
 - amendments to section 299 of the *Workplace Relations Act* (Offences in relation to Commission)
 - civil penalties for officers of organisations.
3. This submission is concerned with the reform options proposed by the Work Choices Bill in the following areas;
 - Australian Fair Pay Commission
 - Australian Fair Pay and Conditions Standard
 - Workplace Agreements
 - Awards

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- Transmission of Business
- Dispute Resolution
- Transitional arrangements for parties bound by Federal Awards
- Transitional Arrangements for existing pre-reform Agreements
- Transitional treatment of State Employment Agreements and State Awards

3.0 *Review of the Workplace Relations Amendment (Work Choices) Bill 2005*

The Agribusiness Employers' Federation supports and endorses the submissions of the Australian Chamber of Commerce and Industry and the Australian Mines and Metals Association.

The Agribusiness Employers' Federation has been a long time advocate of the move to a single unitary system. Work Choices delivers this system for Agribusiness Employers Federation members, all of whom are constitutional corporations.

We turn now to the matters subject to this inquiry

Australian Fair Pay Commission (AFPC)

The Agribusiness Employers' Federation believes that there is merit in abandoning the 'ambit based' based approach to standard setting in Australian Industrial Relations. The Agribusiness Employers' Federation supports the concept of an independent group of experts seeking input from a wide range of parties who are impacted by its decisions. The parties should not be restricted to the traditional industrial parties. In addition The AFPC will (for the first time) be able to approach wage adjustment on a basis that recognises the differing economic conditions impacting upon different industries (eg Mining v Agriculture) and locations (eg Capital cities v drought affected region). This is an important difference between the AFPC model and the traditional approach. The Agribusiness Employers Federation supports the determination of minimum wages by the AFPC

Australian Fair Pay and Conditions Standard

The Agribusiness Employers' Federation contends that a set of legislated minimum conditions of employment which apply to all employees is a suitable (and less complex) foundation for minimum standard setting and agreement making. The AFPC Standard will provide this mechanism.

The Agribusiness Employers' Federation is however concerned about the impact of a 38 hour week on our industry where the 40 hour week award standard remains in place, and the impact the 38 hour week on employees who are remunerated based on results (eg rural real estate salespersons). Whilst we expect that this will be a matter for the Award Review Tribunal we are concerned that Work Choices does not increase the cost of employment in our sector. In our view an extended transition period ought to apply in respect of this significant change.

Workplace Agreements

The Work Choices Bill provides for an increased range of workplace agreements. This is a positive step.

The primacy of s.96 Workplace Agreements will allow collective arrangements which may not suit an individual employee to be customised to meet the needs of an employee and an employer.

The Agribusiness Employers' Federation supports the streamlined agreement pre-approval, approval and termination provisions contained in the Work Choices Bill.

Awards

The historical dominance of awards as the prime source of industrial regulations began its decline with the Hawke Government's 1991 amendments to the Industrial Relations Act and was further enhanced by the

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Keating Government's introduction of non-union Enterprise Flexibility Agreements. This process was later enhanced with the introduction of individual workplace agreements in the 1996 Howard Government reforms.

Work Choices retains the Federal award system for existing employees who do not wish to move to the Work Choices system. Employees who choose to enter into Work Choices Workplace Agreements will rely on the AFPC Standard as the agreement foundation and minimum standard.

Employers will benefit from reduced complexity by measuring agreements against the AFPC standard (as opposed to a range of State and Federal award). This will facilitate employers embracing workplace bargaining and reaching agreements with their employees to meet the needs of the workplace and the employee, as opposed to a 'one size fits all' approach.

Work Choices is a welcome continuation of the devolution of industrial relations commenced in 1989.

Transmission of Business

The existing legislative arrangements concerning transmission of business and their interpretation by the Courts have created unwanted uncertainty as to when a transmission of business occurs.

The Work Choices proposal does not permit transmission where no employees transfer. The Agribusiness Employers' Federation supports this simple, predictable approach.

In cases where there is a transmission of business, such a transmission is limited to 'transferring employees' and will operate for a period of 12 months. This will allow a period of transmission and facilitate the assimilation of the transferred employees into the new business. The Agribusiness Employers' Federation supports this reform.

Dispute Resolution

Work Choices provides a range of options for dispute resolution including access to the AIRC. Agribusiness Employers' Federation believes that the AIRC should only exercise compulsory dispute resolution powers where the parties confer jurisdiction. Work Choices delivers this approach in all but the most extreme disputes [refer Part VC Divisions 6,7,8] .

Transitional arrangements for parties bound by Federal Awards

The Agribusiness Employers' Federation supports the reduction in the number of Awards. Existing Awards which have been maintained and continue to provide flexible arrangements for industry ought to continue. In our industry the *Clerical and Salaried Staffs (Agribusiness) Award* provides the capacity to make individual agreements under pinned by specified minimum conditions. In our view the industry should be entitled to continue to access such provisions.

Transitional Arrangements for existing pre-reform Agreements

Agribusiness Employers' Federation believes that the Work Choices transition arrangements concerning pre-reform agreements are appropriate.

Transitional treatment of State Employment Agreements and State Awards

Employment arrangements for Agribusiness Employers' Federation members are almost exclusively covered by the Federal *Clerical and Salaried Staffs (Agribusiness) Award*. The Agribusiness Employers' Federation does not wish to make a submission on this topic.

4.0 Conclusion

Conclusion

The Workplace Relations Act did not represent the 'state of the art' in workplace regulation. Work Choices whilst an incremental improvement remains exceedingly complex and could benefit from 'plain English drafting' approach.

The Agribusiness Employers' Federation has long advocated the benefits of a simpler national system of industrial regulation. WorkChoices delivers a simpler national system for Australia employers and their employees. Work Choices will break the gridlock imposed by substantially removing six competing industrial relations system in Australia. We encourage State Governments to cede their industrial powers and cooperatively adopt a national approach.

Employers in the agricultural sector have a close, direct relationship with their employees. Workplace Choices with its simple system of minimum standards and more efficient agreement processing arrangements reduce the transaction costs of agreement making and further facilitate agreement making.

The Agribusiness Employers Federation believes that the Work Choices reforms will enhance the productivity and profitability of the agricultural sector and facilitate increased employment and remuneration.

The Agribusiness Employers' Federation commends the Governments proposed legislation for your consideration and endorsement.

5.0 Contact Details

Mr Christopher Platt
Executive Officer
Agribusiness Employers' Federation
Level 6
41 Currie St
Adelaide SA 5000

T: +61 8 8212 0585

F: +61 8 8212 0311

E: christopher.platt@aef.net.au

W: www.aef.net.au