

8 November 2005

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

Dear Members of the Committee,

My name is Kelly Everson. I make this submission to the Committee regarding my concerns over the Federal Government's proposed Work Choices legislation, and their impact of workers like myself who are currently protected under State Awards.

I am presently a permanent part-time employee, working for Best and Less Stores in Ballina, NSW. My terms and conditions of employment are regulated by the *Shop Employees (State) Award*, which is a NSW Award covering shop assistants like me.

I am a single mother, heavily reliant upon receiving an adequate weekly income to sustain myself and my son. Whilst the wages contained in my Award are not very high, the Award contains a number of key protections for me such as overtime rates, meal and rest break provisions, rostering principles, and penalty rates. Each of these issues is very important to me in being able to provide a reasonable standard of living, and balancing my work and family responsibilities.

Generally I am very happy with the current protections under the Award, and am most concerned that a number of these items would be removed under the proposed legislation.

Of key importance for me is maintaining a reasonable rate of pay. I am concerned that the proposed Fair Pay Commission would seek to ensure that only a minimum wage is maintained. At present, I receive a rate of pay under the Award which is higher than the federal minimum wage. As a result, I am very concerned that under the proposed legislation the Fair Pay Commission could "freeze" my rate of pay, until the minimum wage was equal with the wages that I currently receive.

As is it now, I struggle to make ends meet. Things are not easy for a single mother earning low wages. I need fair and reasonable annual increases in my wages to make sure I can continue to provide for my son and I. I presently receive annual wage increases in my Award wages, as my Union – the SDA – applies to the NSW Industrial Relations Commission each year to have the rates in my Award increased. This system ensures that each year I receive some extra money in my weekly wage, which helps me meet my responsibilities and the rising costs of living, from week to week. I do not believe that the proposed legislation ensures that this will be the case.

I am also concerned about the federal Government's proposal to "rationalise" Awards. The protections that I currently enjoy under my Award may be removed under the proposed legislation. Given that I am a low-wage worker,

I need all the protections to my conditions of employment that I currently have. I certainly would not feel protected if my rates of pay were removed from my Award as is currently proposed.

Overtime is an important matter for me. As a single mother, I have certain restrictions on the number of hours I can work, and when those hours fall. Consequently, I can rarely volunteer to work overtime. However, if I am required by my employer to work reasonable overtime, I am currently paid the rate of time and one half for the first two hours and double time thereafter, as compensation for being forced to work additional hours. This extra money is important to me, because I am required to organise child-minding arrangements, and it adequately compensates me for being made to work additional hours. Of note is that I can only be required to work "reasonable" overtime under the terms of my Award, which places restrictions on the amount of overtime I can be required to work. This protection will be removed under the Government's proposed legislation.

As a young, single mother, a most important issue to me is having a family-friendly work environment. My current Award assists me in providing certain restrictions on the number of hours that can be worked in a particular week, and many other rostering principles which can assist me in balancing my work and family responsibilities.

In about late 2003, I approached my employer about some difficulties I was experiencing in looking after my son, who has learning difficulties. I requested to move from full-time to part-time employment to better enable me to care for him. After having reached agreement with a former manager of the Ballina store, that manager moved on and the new manager refused my request after numerous of attempts to secure such an arrangement.

In accordance with the Grievance Procedure contained in my Award, I contacted my Union Organiser, Mr Trevor McCosker, who became involved in assisting me discuss the dispute with the Company. Eventually, the matter was escalated through the Grievance Procedure and a dispute was notified to the NSW Industrial Relations Commission, seeking its assistance to resolve the dispute in accordance with the Award. However, discussions between the Union and the Company continued, and the matter was eventually resolved to my satisfaction without the involvement of the Commission on this occasion.

In my view, that example demonstrates how very important it is that the Award retains the ability to take disputes occurring at a workplace level through a defined procedure, and that the Act makes specific provision for the referral of the dispute to the independent umpire, such as the NSW or Australian Industrial Relations Commission for conciliation and arbitration of such a dispute. It gave me a great degree of comfort to know that if the matter was not resolved, I could have my dispute resolved one way or the other.

It was not until the SDA notified my dispute to the Commission that I was taken seriously by the Company, and that they would further discuss this issue with a view to resolving it.

The ability to have these powers guaranteed in the legislation is essential. I do not believe that such rights will be guaranteed for all workers under the proposed WorkChoices legislation.

My example also highlights the importance the Union's role in satisfactorily and fairly resolving disputes and enforcing entitlements for employees under Awards, and their continued need to do so. Without the Union's involvement, I may not have been able to resolve this dispute on my own. Fortunately I was a member of the SDA and was able to have my rights enforced.

Ballina is a small community and as such, work can be difficult to find. It concerns me greatly that under the proposed legislation, my employer will be allowed to make employment of new employees compulsory on signing an Australian Workplace Agreement ("AWA"), which will undermine the existing terms and conditions of employment I currently enjoy under my Award.

In particular, AWAs can remove such entitlements as four weeks' paid Annual Leave, overtime rates, rest breaks, rostering conditions and penalty rates that I currently have under my Award. These could be offered to new employees, employed for only a few cents per hour more – or, in the case of young workers, less than I am paid, because of Junior Rates.

I personally have already seen many young employees employed merely because they are paid a lower hourly rate – a common theme in the retail industry. In my experience, where an opportunity exists for an employer to pay workers lower wages or provide them with lesser conditions of employment, they will do so. In these circumstances, new employees will accept lower standards of employment than others they work beside, because they feel they must accept the AWA to get a job which they are desperate for.

The other issue is that those of us on the Award may also be forced to accept lower standards to keep our jobs, or else be forced out by newer, cheaper employees employed under AWAs. This is because in a town like Ballina, we need employment. However, there must be a balance between the interests of employers and employees, and I believe that the Work Choices legislation skews the balance far too much in favour of employers to the detriment of employees.

In making this submission to the Committee, I am speaking of my concerns not only for myself, but for the current and future employees in Australia who deserve fair and reasonable working conditions. Working in a low paid industry such as retail I need as much protection of my entitlements as possible, because I am so heavily reliant upon the wages I receive to provide for my son and I. My NSW Award provides me with those protections, and I am concerned at any proposals to remove even one of those matters from the Award.

Job security, and the work and family balance, are also issues which greatly affect and concern me. I do not believe that allowing employers to undermine Award conditions by allowing AWA's for new employees, and removing a number of rostering provisions from Awards, achieves security or balance for employees in any way.

I trust that this submission provides useful examples of the benefits of the current system, and wish the Committee well in its deliberations on this most significant matter for all Australian workers and their families.

Yours faithfully,

Kelly Everson.