

10 November 2005

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

Email: eet.sen@aph.gov.au

Dear Sir/Madam

I wish to provide the following submission to the Committee's the inquiry into the Work Choices Bill 2005. I previously made a submission through the ACTU's "Your Rights at Work" campaign, but to make sure that the Committee received my views I would like to directly provide a further copy of my submission for its consideration.

I have a number of concerns about the Government's proposal to dismantle the industrial relations system that has served Australia well for over 100 years.

Firstly, I am concerned that the Government's plans to impose a unitary Industrial Relations system and abolish the current tested and tried pluralistic system will see important checks and balances being taken away. The beauty of the present system is that such checks and balances (for example, the Industrial Relations Commission) ensure that power by one or more parties in the Industrial Relations system is not abused. The Government's plans to impose a unitary system will see the power of certain groups (notably employers) increase at the expense of others (employees). This will lead to increased tensions, not only industrially but also socially.

Secondly, under the Government's plans it will be possible for an AWA to take away penalty rates, overtime and allowances, with no compensation. I am concerned that employees will lose take home pay under the new laws. If the new laws are going to be implemented it is necessary that they should guarantee that there will be no cut in employees' take-home pay.

Thirdly, many employees are not in a position of strength to be able to negotiate directly with their employer about their pay and conditions. There have been a number of documented examples of employees who have been disadvantaged under AWAs and who receive less pay than under the relevant award.¹ There is also evidence that if employees are shifted from collective bargaining to individual contracts then productivity will suffer.² Where is the Government's guarantee that no individual employee will be worse off under their new laws? The new laws are proposed to not make it easy for unions to

¹ Peetz, D., "System remains collectively unfair", *Courier Mail*, 2 September 2005, p. 19

² Peetz, D., "Reform isn't working", *Courier Mail*, 4 July 2005, p. 9

represent their members in matters relating to pay and conditions. Why is this being done? There does not appear to be any sound rational argument behind such changes.

Fourthly, I am concerned that employees will have less say over how many hours they work and when they work them. Hours worked at any time of the day or night can now potentially be at ordinary time rates, and meal breaks and minimum breaks are now negotiable. This could greatly impact the quality of employees' home life and health. Where is the guarantee from the Government that employers will not be able to disadvantage employees in such ways?

Fifthly, I am concerned that under the new laws employers may not continue to bargain with employees collectively (collective bargaining is a right guaranteed to employees under international conventions and agreements but not, apparently, under the new laws). The new laws should guarantee that where employees wish to negotiate collectively, their employer is to cooperate.³

Sixthly, employees under State awards have an added protection of the State Industrial Relations system under which they work. The decisions of the State Industrial Relations Commission have been important in setting decent wages and conditions in workplaces. I am not comfortable with these protections being taken away and am not convinced that the new system the Government wishes to impose will make me better off in terms of wages and conditions.

Seventhly, under these new laws workplaces of less than 100 employees will be exempt from unfair dismissal laws. Many employees will be more vulnerable under these new laws than they were before. The current checks and balances will be removed and people could be sacked unfairly without redress. The Government talks about fairness, but this aspect of the proposed new laws is particularly NOT fair. There should be guarantees in the new laws against such actions by employers. There will be laws against unfair actions by unions, so there should be similar laws for unfair actions by employers.

Finally, I would like to make the following observation. If work 'choices' are so important, why can't employers choose whether to opt in to the new Federal system or stay with the state systems, which often provide greater protections? The Government is always talking about 'choice'. Why aren't employees being given a choice in this matter? What's the Government afraid of?

I trust the Committee will give the above comments and observations its serious consideration.

³ Of the right to engage in collective bargaining it has been observed, "*These human rights take precedence over any corporate rights and privileges, including to hire and fire, and over the corporate rallying cry 'freedom of contract'. It follows from principles of human rights that rights to collective bargaining should take precedence over individual contracting.*" (Peetz, D. "System remains collectively unfair", *Courier Mail*, 2 September 2005, p. 19)

Yours faithfully

Don Willis