

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

Submission no: 192

Received: 11/11/2005

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President

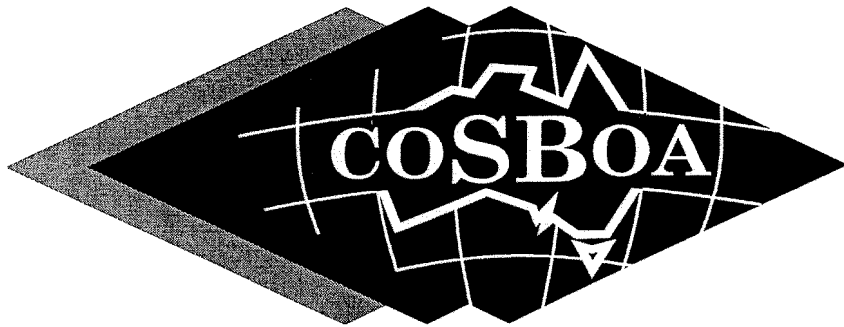
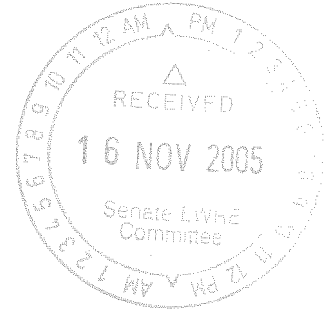
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Council of Small Business Organisations
of Australia Ltd.

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November 2005

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1. Background on COSBOA

The Council of Small Business Organisations of Australia Ltd (COSBOA) is widely recognised as a peak body of small business organisations, industry groups and individual members. It was founded in 1979, incorporated in 1985 and operates through a secretariat based in Belconnen, Canberra.

We represent the small business sector in Australia. All members have the opportunity and means to influence, at political and government levels, for the well-being and future of their member small businesses.

- We provide the small business sector with information.
- We assist individual members and member associations.

We help individual members and member associations develop business opportunities through our affiliations with key organisations. All members can use COSBOA's affiliations and contacts with industry and business organisations.

We help members influence their external business environment, especially in the area of government policy.

COSBOA assists members by monitoring government activities, influencing the development of government policies, presenting industry viewpoints and providing opportunities for members to become involved in policy development.

COSBOA is the primary lobbying vehicle for issues relating to the small business sector.

COSBOA members can have ready access to information on key policies impacting on the small business sector.

COSBOA is headed by a Board of Management and the Chair, Mr. Bob Stanton, who also presides over the quarterly Council meetings consisting of all members, these are usually held in Canberra.

COSBOA also holds the National Small Business Summit annually and boasts the attendance of the Prime Minister on 4 of the 5 occasions it has been held. This reflects the importance of small business to the Australian community and the economy.

2. Introduction

The Members of COSBOA have a significant interest in this review due to the impact of workplace relations on their businesses.

There are 1.3 million small businesses in Australia of which around 800,000 are micro businesses. Most of these employ staff either at the state level using the local awards or under the federal system.

There is great confusion regarding the multiple system and the complexity and the number of awards adds to this confusion.

The emphasis for small business though is not the system but the relationship business owners have with their staff.

3. *Impact on Small Business in the past*

a) The scope and coverage.

With something like 4000 awards in place around the country the confusion factor is very high within small business. Chambers of Commerce and Industry/business associations are struggling to continue to interpret the maze of information affect small business.

Australian Workplace Agreements are becoming more and more popular but are only available those who register as a company with ASIC.

b) Choice of form of agreement

With 1.3 million small business workplaces around the country, there are 1.3 million unique sets of conditions to be catered for, not only those of the employer but also the employees. It is important to ensure flexibility and therefore individual business needs to choose which type of agreement best suits them.

c) The parties' ability to genuinely bargain.

Employees have families to run, some are carers or have other social obligations and they often find there are problems fitting into the overarching (Industry Wide) awards that set out conditions of work for all. Flexibility is crucial to the success of small business when competing in the marketplace especially against big business.

d) The social objectives

COSBOA, at the National Small Business Summit in May called for more flexibility for small business employers to be able to allow employees to work when they can and therefore enable these small businesses to retain their competent staff.

This in turn would allow more flexibly for employees and address many of the social difficulties in our society today.

Skill shortages also have led to a high demand situation for good staff with higher wages being sought and small business often struggling to meet demand from customers. Flexible work conditions can help small business retain high demand staff.

e) Productivity improvements and efficiency.

Over the past few years many industries have been deregulated leaving small business exposed to new pressures from large businesses, suppliers and new demands from customers. This has in many cases been impossible to overcome due to the restraints placed upon small businesses by workplace rules and regulations.

AWA's have provided answers when businesses have become companies allowing them to flatten wages across the week and enabling them to open on Saturdays and Sundays to cater for customer demand.

5. Registration as a Company

At present there is a requirement that a business / employer be registered as a company under ASIC in order to take advantage of Australian Workplace Agreements.

AT COSBOA we feel there must be either a relaxing of this requirement or a easier method of registering as a company. This must not only be with regard to the paperwork and cost but also the onerous responsibilities that go with being a Director of a company.

COSBOA currently has a seat at the ASIC Business Advisory Group meetings and is happy to help work through some of these issues.

6. The Economy

Australia has benefited from the efficiencies gained over the past 20 years by way of deregulation and competition; this has served us well in this globalised world.

Small business is a powerful force when it comes to employment and a lack of confidence and worse, a confusing workplace, will lead to lay offs and hardship.

It is vital that small business be assisted with employment issues allowing further employment growth within Australia.

The answer lies in education; not in macro economic settings that slash and burn at the small business end without regard to the individuals involved, but rather at the micro reform end where flexibilities and simplicity allows for greater compliance and understanding of the workplace arrangements.

7. Highlighted points for the new system

- The Workchoices system allows flexibility for small business employers
- It also allows full access to all employer associations to the system not just a few.
- It must be cheap to access and not be dominated by lawyers and expensive advocates

- The new system must also be simple to understand and operate in for small businesses and the associations.
- It must be fair for all employees and not allow unfair advantage to be gained by unscrupulous employers, there is a balance to be reached.

8. Conclusion

An appraisal of our community today from an perspective of a small business owner and operators would see a one sided IR system with many favours for the employee and not enough help for employers that after all are the ones who are taking the risks and offering the jobs in the first place.

We also encourage the Government to educate the small business sector on these changes and how to best utilise Workchoice and at the same time protect workers from unscrupulous employers.

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Australian Financial Review address – Tony Steven 25th Oct 05

15 Minutes - 10.15am to 10.30am

Address: (Invited): Tony Steven, CEO, Council of Small Business Organisations of Australia.

Making Australia competitive: examining the impact the industrial relations reforms will have on small businesses.

Minister Andrews, Minister Brough other Parliamentarians, distinguished guests, ladies and gentlemen.

Small business welcomes these changes proposed by the Australian Government.

Cultural change

We see more into this though, than what has been said so far in the debate. Small business owners are individuals, people who are willing to be self-reliant and have proven that they are able to take on self-responsibility by the sheer fact that they have started or run a business. They market their goods and services and negotiate their own agreements.

We see a cultural change in these industrial relations reforms; we see an opportunity for all workers to operate, in a sense, as small businesses. Their commodities are their skills and their attitude. As the Prime Minister has said, today's economic environment is a workers market; it is the opportune time for the introduction of these reforms.

According to a recent release from the Australian Bureau of Statistics there are now 3 million small businesses in Australia, this I think, includes all the ABN's, home based and part time operations. We at COSBOA refer to the ABS figure of 1.3 million small businesses in the country. But I feel all of this highlights the increased number of people taking on responsibility for them selves in one area or another, regarding their employment, independent contractors and second job business owners. People, who have been *downsized* by the national companies, then come back as providers who have been *outsourced*. No workers compensation, no insurance, no training no hardware it cheaper to bring in contractors isn't it!

I'd like to suggest that over the coming years this might be much more the predominant attitude of workers. The reason is two fold:

The employee wants flexibility for the family. Both parents are working, demands on the family created by children, such as school and sport. And hopefully a more even workload within the household, all this will mean the workplace will need to be more flexible to attract and retain the best staff.

Secondly, the employer needs to meet demand. Deregulation and customer demands have meant that the world closer now to 24/7 than ever before.

Smart operators are asking for outcomes rather than an amount of hours. It reflects the higher degree of education within the population and shortage of skilled workers. The age of the life time job has gone, already 25% of the workforce change their job each year, self responsibility is

often sadly lacking in Australia, well here's an opportunity to develop it further.

Competitiveness

At the National Small Business Summit last May in Sydney, COSBOA called for the new industrial relations system to have four elements to ensure small business can participate and therefore compete against their bigger brothers, they are: access, flexibility, simplicity and cost.

Access

We asked that any proposal must allow full and easy access for small business owners and their associations, to the system. The last thing we need is an Australian Industrial Commission and Fair Pay Commission dominated by large business and lawyers exclusively from the bigger cities.

Flexibility

Awards, if Federal only, should be flexible enough to cater for the requirements of the 1.3 million unique small business work places around the country. The more decisions that can be made in the local area the more the IR system will reflect the needs of the Small Business employers and their employees; therefore producing the increased efficiencies the Government is looking for.

Simplicity

With something like 4000 awards currently in Australia (many of them out of date) the complexity of employing an individual is staggering. Fewer awards and simple to follow principles are paramount to ensure small businesses are able to play in the game.

Cost

There is a natural tendency in any centralised system to become larger, where over arching policy orientated decisions will be made and it will become costly. Any new system must remain local or workplace based, focus on easy to use principles and be cheap to access.

The procedures to be followed by the Australian Fair Pay Commission should encourage Small business to access the commission without high costs and with as much assistance as possible to ensure decisions follow the whole Australian economy not just Sydney Melbourne and Brisbane. All industry specific associations should be encouraged and even helped to participate.

Working with employees

My Council have insisted that we, as the small business sector do not want to be taking advantage of our staff through the introduction of these reforms. Whilst we are in this “Workers Market” this part of the economic cycle that results in a skill shortages will protect the workers when negotiating with employers, the question we ask, even though we are employers, is, what will protect the workers when the economic cycle turns?

Also a question has been raised, if these reforms are all about efficiencies, which means either, lower costs or more production, which then applies to new staff? (Like Billie in the Governments brochure) Is there an answer for this in the absence of the “No disadvantage test”?

I suggest yes and it’s a combination of both:

Lower costs can be gained by way of negotiating a flat rate instead of penalty rates and overtime loadings for example, and more production because we will be able to allocate staff more freely to time sensitive jobs.

This will allow more small businesses to employ more people, reduce overtime and provide better goods and service. New employees will soon gain the experience and added efficiencies that will lead to further negotiations allowing business owners to pay more. Which comes first the chicken or the egg, in this case I think it is the egg.

As I said before employees are small businesses themselves selling their skills and attitude and are free to move between jobs in this workers market. With this cultural change staff can regularly negotiate better rewards for themselves; involvement in the business and even start their own. We even see a role for unions and IR specialists here, assisting employees.

Remember relationships between small business employers and their employees are a lot closer than in big business. Builders, shop owners and office workers are often friends with their employees as well, and opportunities can blossom with the right attitudes.

Transition

Not all employers are experts in IR and business compliance; there will need to be an extensive programme initiated to ensure small business takes advantage of these opportunities. ASIC may see a significant increase in the registration of companies because of the exemption from the dismissal laws.

There will be big role for industry associations, IR consultants and the Government to ensure small business understand the detail and I applaud the Government for the length of time granted to introduce these changes although I suspect it may have more to do with high court challenges and the states.

We feel the Australian Government is taking on a leap of faith when they insist the states will eventually forego their right to the IR jurisdiction, it may well pay off and any high court challenge may well be successful. But what happens to small business if it doesn't happen like it is expected to?

Incorporation

Red tape is one of the big issues for small business these days and not just directly from Government but also from big business as they strive to comply as well. As small businesses incorporate to join the Federal Workplace Relations system there will be more red tape to deal with. I know ASIC is looking to overcome this over time however the level of compliance will dramatically increase during the transition at least.

Unfair Dismissal Exemptions

Unfair Dismissal – funny term that, shouldn't it be all about fair separations, after all if you need to terminate someone from their employment for performance, honesty or harmony reasons surely an employer should be able to do so without the threat of huge legal; costs hanging over them. After all it seems that employees can sperate from an employers as will.

Go away money has become a hidden industry, it isn't recorded anywhere and yet feedback from small businesses is that it is happening all the time.

Small business owners need the confidence to employ new staff. We were surprised by 100 limit but welcome it.

The economy

In these prosperous economic times we have a unique opportunity to introduce these reforms, the result will be a more efficient workplace, and there will be less pressure on wage push inflation due to more individual workplace agreements, these being more closely aligned to performance increases, not inflation itself.

Conclusion

Small business needs to be able to compete in this deregulated market and to fit into today's life style these changes will help us keep good staff, meet family demands and satisfy trading hours and other demands placed on us by the customers.

I see the shape of small business in the future as Partnerships between many, customers, staff owners and family. Outcomes are now the drivers not time and flexibility in the workplace is fast becoming a way of life.

Panel discussion: Understanding the top ten reforms – what they mean for both employees and employers

- Creating a single national system: a federal takeover of state IR laws
 - Can they do it without cooperation?

- Creating a new Fair Pay Commission: transferring power to set the minimum wage away from the Australian Industrial Relations System
 - Will this be an economic measure only
 - Inside reserve bank
 - What about a social impact

- Promoting non-union Australian Workplace Agreements: decreasing from 20 to 16 allowable matters
 - What are the 16 matters
 - What are the 4 to be left out?
 - Are they: Annual Leave, Long service leave, termination, and what?
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- Altering the no-disadvantage test: creating more flexible arrangements compared with awards
 - How will this be applied
 - What will the test be
 - How will it impact employees
 -

- Scaling back the Australian Industrial Relations Commission's powers of arbitration
 - Disputes only
 - Access for SME's and their associations
 -

- Exempting small businesses from unfair dismissal rules and redundancy payments
 - Surprised by 100 limit and welcome it
 - Go away money
 - If employees can leave any time surely employers should be able retrench at any time.
 - High demand for employment
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- Imposing penalties for unlawful strikes and industrial action: introducing compulsory secret ballots before strikes
 - Provides balance for small business
 - Building industry
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- Protecting independent contractors from unions
 - Contractors are businesses and they need to adopt that culture – self responsibility
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- Regulating the right of union officials to enter workplaces
 - Reasonableness –
 - Unions have a roll in future as advocates they should adopt that mind set a s quickly as possible
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Invited:

- Luke Radford, Head of Personnel, Toll Group
- Alec Bashinsky, Partner, People and Performance, Deloitte
- Jo Mithen, Executive Director, AHRI
- John Fletcher, Chief Executive Officer and Managing Director, Coles Myer Ltd
- Noel Henderson, Director and Chief Operating Officer, Multiplex Constructions Limited
- **Kevin Brown, *Head of People, Qantas Airways***
- Solomon Trujillo, Chief Executive Officer, Telstra
- **Doug Cameron, *National Secretary, Australian Manufacturing Workers' Union***
- Andrea Grant, Executive Director Human Resources, GM Holden Ltd
- John Gay, Managing Director, GUNNS Ltd
- Stuart James, CEO, Mayne Group