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Monday 4th August, 2008

Mr Peter Hallahan
Committee Secretary
Senate Legal and Constitutional Affairs Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Secretary,

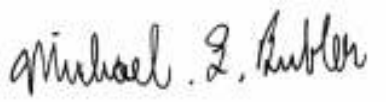
RE: INQUIRY INTO THE EFFECTIVENESS OF THE *COMMONWEALTH SEX DISCRIMINATION ACT 1984* IN ELIMINATING DISCRIMINATION AND PROMOTING GENDER EQUALITY

APESMA appreciates the opportunity to provide a submission to this inquiry.

Unfortunately due to competing demands and the current multiple inquiries the Association has not been able to provide a detailed submission but has endeavoured to provide information about the nature, prevalence and affect of discrimination on technical professionals which it hopes will assist the Committee in its inquiry.

As stated in the submission that follows, APESMA supports the recommendations contained within the submission of the Australian Council of Trade Unions to address these matters.

Yours Sincerely,



Michael Butler
Acting Chief Executive

APESMA Submission to:
Senate Legal and Constitutional Affairs Committee

INQUIRY INTO THE EFFECTIVENESS OF THE *COMMONWEALTH SEX DISCRIMINATION ACT 1984* IN ELIMINATING DISCRIMINATION AND PROMOTING GENDER EQUALITY

August 2008

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1. Background on APESMA

1.1. The Association of Professional Engineers, Scientists and Managers, Australia (APESMA) is a union for professional employees registered under the *Workplace Relations Act 1996*. The Association has over 20,000 members and 10,000 affiliate/student members in all states and territories of Australia. APESMA members are predominantly technical professionals including engineers, scientists, veterinarians, surveyors, architects, pharmacists, information technology professionals, managers and transport professionals.

2. Summary and recommendations

2.1. Evidence would suggest that direct discrimination is high in prevalence for engineers and has a significant impact on the careers of many technical professionals.

2.2. Systemic discrimination is a significant issue for women in the technical professions, particularly those with family responsibilities. This is not specifically addressed within the current legislation.

2.3. There are low levels of part time work apparent in technical professions and a preference by nearly half of women survey respondents to work less hours. Many women in the technical professions have reported a significant affect of balancing work and family responsibilities on their career.

2.4. Women are under represented at senior levels of science, engineering and information technology and there is a lack of pay equity between men and women at the same responsibility level in science at all levels and in senior levels in other professions.

2.5. Workplace cultures in the relevant professions, in some instances, are not family friendly and may not be conducive to the inclusion and progression of women, At worst, some workplace cultures include the behaviours of sexual harassment and bullying.

2.6. Women are leaving the engineering profession faster than men, in a time of skills shortage, with anecdotal evidence suggesting that a difficulty balancing work and family is one of the factors, providing an economic impetrative for redressing systemic discrimination.

2.7. Current anti discrimination legislation has not eliminated sex discrimination or discrimination on the basis of family responsibilities. A more proactive approach is needed and APESMA urges the Committee to makes recommendations consistent with those contained within the Australian Council of Trade Unions submission.

3. Technical Professionals Continue to Experience Discrimination

3.1. Technical professionals continue to experience discrimination on the basis of gender and/or family responsibilities and too many continue to face sexual harassment in the workplace.

3.2. Prevalence and impact of discrimination

Indications are that despite existing sex discrimination legislation the prevalence and impact of direct discrimination of women in technical professions is extensive. A survey of women engineers conducted by Engineers Australia in 2007 found that 42.3% of women respondents had experienced discrimination in their role as an engineer (predominantly gender based), which had increased from 36% in 1999.[1] This is particularly significant given that nearly half of the respondents had only graduated as an engineer within the last six years and represents a high prevalence of direct discrimination[2] of female engineers.

[1] Engineers Australia (2008) *Valuing the Difference: An update on the progress of women in the engineering profession* (available at: http://www.engineersaustralia.org.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=7DA323DA-E3CC-A6FB-8DB3-4D97EFFBBEEF&siteName=ieaust)

[2] An assumption is made that most survey respondents are likely not to include indirect discrimination when answering survey questions about discrimination.

APESMA undertook a survey of professional women in 2007 which had 1953 respondents (including both members and non members).[3] The respondents came from a range of professions, though they were predominantly technical professionals; 43.2% of respondents had a degree in science and 23.3% had a degree in engineering. When asked about the affect of discrimination on their career 9.1% of respondents answered it had a significant affect, 14.4% a moderate affect and 27.4% a minor affect. Therefore direct discrimination for women in technical professions is not only high in prevalence, but has a significant impact on many women's careers. The current legislation has not been successful in eliminating direct discrimination against women and a more proactive approach is needed.

3.3. Systemic Discrimination

The workforce has changed substantially in recent decades with increasing labour market participation of women. However, the way that work is structured has not altered at the same rate. Systems of work have generally been organised around assumptions that an employee is supported by another family member undertaking caring and domestic responsibilities at home and therefore does not carry family membership to work. This is no longer the case for many employees. Whilst there has been a shift in the way that work is organised, substantial change has not occurred leading to systemic discrimination of those with caring responsibilities, predominantly women. Current discrimination legislation addresses direct and indirect discrimination, but does not specifically address systemic discrimination.

3.4. Family Responsibilities

The impacts of systemic discrimination on technical professionals with family responsibilities are hard to measure but are likely to be substantial. Respondents to the 2004 APESMA Women in the Professions Survey 78.7% answered that they believed they would need to modify their career ambition to start a family[4]. Additionally, 63.5% of respondents to the 2007 APESMA Women in the Professions Survey responded that balancing work and life had an affect on their career (35.6% answered it had a significant affect and 27.9% reported a moderate affect).[5] Much of this negative career affect from balancing work and family may amount to systemic discrimination.

Though anecdotal evidence would suggest that employers are increasingly recognising the advantages of providing greater flexibility to those with family responsibilities, particularly in the

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[3] APESMA *2007 APESMA Women in the Professions Survey Report* (available at www.apesma.asn.au/women/survey_report.asp).
[4] Unpublished result, for the details of the survey see APESMA *2004 APESMA Women in the Professions Survey Report (*available at www.apesma.asn.au/women/survey_report.asp).
[5] APESMA *2007 APESMA Women in the Professions Survey Report* (available at www.apesma.asn.au/women/survey_report.asp).

public sector, the effectiveness of the response is varied. This is supported by evidence from the APESMA Women in Professions Survey Report which found that many respondents (45%) stated their desire to work less hours[6] and only 12.1% of engineering, 16.5% of science and 17% of information technology professional respondents worked part time[7] which is significantly lower than the broader workforce.

When seeking feedback for a recent submission from members regarding paid parental leave for the preparation of the submission to the Productivity Commissions inquiry[8] a few members noted support from employers in managing their family responsibilities but difficulties reported included discrimination whilst pregnant and problems upon return to work. One member reported to us that a major employer having trouble attracting engineers informed them (through a recruitment agency) "we don't want part-timers."

Another member told the Association:
"Looking at my professional friends as the biological clock ticks, most have moved in the public sector over the years so that they could have a family. Of my friends who remained in the private sector few have children, and [of] those that did none could find a way to return to work and balance motherhood and work demands". – Female Engineer from New South Wales

3.5. Women under represented at senior levels

A lack of women in senior levels is an issue that permeates all of the technical professions. Of respondents to the 2007 APESMA Women in the Professions Survey 41.3% answered that a lack of access to senior roles for women had a significant or moderate affect on their career[9] which indicates significant barriers to women's career progression.

3.6. The lack of women in senior levels is of particular concern in the science professions. The APESMA Women in the Professions Surveys have been conducted on a regular basis since 2000. They provide indications that women have been a stable presence in the professions for some time but have failed to progress through to senior levels. The 2007 APESMA Women in Professions Survey Report found that in the science professions 70.9% of women held positions at

[6] Ibid.
[7] APESMA *2007 APESMA Women in the Professions Survey Report* (available at www.apesma.asn.au/women/survey_report.asp).
[8] APESMA Submission to Productivity Commission's inquiry into Paid Maternity, Paternity and Parental Leave (available at: http://www.pc.gov.au/__data/assets/pdf_file/0016/81430/sub204.pdf).
[9] Ibid.

responsibility levels 1-3, compared to 37% of men and 29.1% of women held positions above level 3, as compared with 63.0% of men.[10] There may be many reasons that this occurs, but it is likely that discrimination (including systemic discrimination) is a factor.

3.7. Lack of Pay Equity

In a further example of discrimination, many women in technical professions perceive that they do not receive equal compensation for work of equal value to their male colleagues. The 2007 APESMA Women in Professions Survey found that 26.8% of all respondents, and 31.3% of those with a job at a responsibility level above Level 5, believed that they did not receive equal compensation for work of equal value with their male counterparts.[11]

3.8. APESMA conducts comprehensive remuneration surveys of a number of different technical professions, the results of which are analysed by gender in the APESMA Women in the Professions Survey Report 2007 for some occupations. In the science professions women have, on average, earned less than their male counterparts undertaking work at the same responsibility level across all responsibility levels.[12] Whilst some of the sample sizes are quite small (particularly in women at senior levels) these results have occurred reasonably consistently in the last four surveys. Whilst gender segregation in the various underlying scientific disciplines may play a role this clearly requires further investigation. The current anti discrimination and industrial relations legislation is not adequate in enabling issues of lack of pay equity to be properly investigated and addressed.

3.9. Workplace Culture

Workplace culture can have a discriminatory effect in a number of ways and was identified by 24.1% of the respondents to the APESMA Women in the Profession Survey Report 2007 as having a significant affect and 25.7% as having a moderate affect on their career advancement.[13]

3.10. Workplace Culture – Family Friendly?

Workplace culture can impact on the use of family friendly work practices. In recent feedback from members regarding paid parental leave[14] a few provided very positive stories of a supportive

[10] APESMA *2007 APESMA Women in the Professions Survey Report* (available at www.apesma.asn.au/women/survey_report.asp).
[11] Ibid.
[12] Ibid.
[13] Ibid.
[14] APESMA Submission to Productivity Commission's inquiry into Paid Maternity, Paternity and Parental Leave (available at: http://www.pc.gov.au/__data/assets/pdf_file/0016/81430/sub204.pdf).

workplace culture. However there were also stories of workplace cultures not conducive to family friendly work practices.

One member told the Association:

The local management were extremely anti flexibility though the policies supported it…There was a policy written by one half of the organisation but the other half of the organisation was a lot more misogynistic." *– Female Engineer from New South Wales*

It is important to recognise that a workplace culture that is not conducive to the take up of family friendly work practices will affect both women and men with family responsibilities.

3.11. Workplace Culture – Conducive to the inclusion and progression of women?

Workplace cultures can act to be conducive to the inclusion and progression of women, or may be exclusionary. Of respondents to the 2007 Women in the Professions Survey, 24.7% answered that the lack of other women in the workplace had significantly or moderately affected their career advancement and 43.3% responded that a lack of women in senior roles had a significant or moderate affect on their career.[15] Whilst there may be several factors which could contribute to these results it is likely that workplace cultures which are not conducive to the inclusion and progression of women are more likely to lead to such responses.

3.12. Workplace Culture - Sexual Harassment and Bullying

At its worst, workplace culture issues may include sexual harassment and bullying. Sexual harassment continues to be an issue for many women working in technical professions. In a recent Engineers Australia survey 22% of women engineer respondents answered that they had experienced sexual harassment and 28% had experienced bullying (nearly a third of which was related to their gender) whilst working as an engineer.[16] As stated earlier, nearly half of the respondents to this survey had graduated as engineers within the last six years which makes these results even more alarming.

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[15] APESMA *2007 APESMA Women in the Professions Survey Report* (available at www.apesma.asn.au/women/survey_report.asp).
[16] Engineers Australia (2008) *Valuing the Difference: An update on the progress of women in the engineering profession* (available at: http://www.engineersaustralia.org.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=7DA323DA-E3CC-A6FB-8DB3-4D97EFFBBEEF&siteName=ieaust)

4. Despite Skills Shortages Women Leaving Engineering

4.1. Women are a significant proportion of graduates of sciences, information technology, architecture, engineering and related technologies (34% in 2004).[17] However further investigation is required regarding the retention of women in these professions. The APESMA Women in the Professions Survey Report 2007 estimated that women are leaving the engineering profession 38.8% faster than men.[18] Whilst there may be a number of reasons why this is occurring, anecdotal evidence from members would suggest that the difficulty balancing work and family responsibilities is one of the causes.

4.2. Australia is currently experiencing skills shortages in many technical professions including a number of disciplines of engineering.[19] The development of science, engineering and technology skills has been associated with growth and productivity of the economy[20] providing an economic imperative to retain skilled and experienced women. This is unlikely to be achieved without providing the opportunity for women to participate in technical professions free from all forms of discrimination (including systemic discrimination).

5. Limitations of current discrimination legislation

5.1. The current plethora of discrimination, equal opportunity and industrial relations legislation (including the *Commonwealth Sex Discrimination Act 1984)* has not acted to eliminate discrimination for women and those with family responsibilities working in the technical professions.

5.2. The grounds for remedy contained within the *Sex Discrimination Act 1984* are too limited, particularly in regards to family responsibilities and men seeking remedies on the basis of both gender and family responsibilities.

5.3. By its very nature a complaints based system is reactive rather than proactive and as such faces limitations in eliminating discrimination. In addition, the current system necessitates an individual or group of complainants to pursue a matter which requires resources, can result in victimisation,

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[17] From the previously named Department of Education Science and Training cited in APESMA *2007 APESMA Women in the Professions Survey Report* (available at www.apesma.asn.au/women/survey_report.asp).
[18] In 2006, 11% of engineers with 7 to 10 years experience were women, as compared to 18% of graduates in 1996, see APESMA *2007 APESMA Women in the Professions Survey Report* (available at www.apesma.asn.au/women/survey_report.asp).
[19] Engineers Australia (2008) *The Engineering Profession: A Statistical Overview, Fifth Edition, 2008*
[20] Department of Education Science and Training (2006) Audit of science, engineering and technology skills: summary report Commonwealth of Australia, Canberra, pix. (available at: www.dest.gov.au/sectors/science_innovation/policy_issues_reviews/key_issues/setsa/report.htm).

may be a difficult, time consuming and emotionally challenging process and, even if resulting in a positive outcome, the process may take too long to provide a practicable and useful solution to the complaint.

5.4. Despite the high prevalence of discrimination which technical professionals have had to face the level of individual complaints lodged at the state and federal level is low.[21] Though it is acknowledged that many complaints may be raised and resolved at the workplace, it is likely to be the case that a lot of discrimination is occurring without complaint, remedy or resolution.

5.5. Where APESMA and other unions or representative groups, can provide prima face evidence of the existence of systemic and/or indirect discrimination mechanisms should exist for full investigation and resolution of the matter.

5.6. It is the position of APESMA that a much more proactive approach to preventing sex discrimination and discrimination on the basis of family responsibilities is required. APESMA supports the recommendations within the submission of the Australian Council of Trade Unions to address these issues.

6. Conclusion

6.1. Direct, indirect and systemic sex discrimination continues to occur within technical professions. The prevalence and impact of direct discrimination is high amongst technical professionals. Women continue to be concentrated at the lower levels of the professions and earn, on average, less than their male counterparts across all levels of science. They continue to report a significant affect of balancing work and family on their career with few working part time and many preferring to work less hours. Many technical professionals report that workplace culture has affected their career advancement and some have experienced sexual harassment and bullying. Current anti discrimination law has not eliminated all direct, indirect and/or systemic discrimination for technical professionals.

6.2. APESMA urges the Committee to make recommendations for more proactive discrimination legislation in line with the recommendations contained within the submission of the ACTU.

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[21] For example in the 2006-07 Human Rights and Equal Opportunity Commission received only 472 complaints made under the *Sex Discrimination Act 1984* (HREOC, July 2008, *Gender equality: What matters to Australian women and men: The listening tour community report*, p14 available at http://www.hreoc.gov.au/sex_discrimination/listeningtour/index.html) and the Victorian Equal Opportunity and Human Rights Commission received 162 complaints of sex discrimination (of which 139 related to employment) (Victorian Equal Opportunity and Human Rights Commission *Annual Report 2006/2007*, p36, available at: http://www.humanrightscommission.vic.gov.au/pdf/veohrcannualreport2007.pdf).