

**CoSBA**



Combined Small Business Alliance of WA (Inc)



Date: 12 May 2011

Hon Simon O'Brien MLC  
Minister for Small Business  
Parliament House  
WEST PERTH WA 6005

Dear Minister

**Re: REVIEW OF THE WA INDUSTRIAL RELATIONS SYSTEM**

Thank you for your invitation for our organisation to provide feedback on the Government's proposed changes to the WA industrial relations system, it is greatly appreciated.

In acceptance of your invitation, we made our written submissions to Ms Lorraine Field, Director Policy and Legal, Labour Relations Division, Department of Commerce, which were discussed between members of our Board and her and her associate on 4 May 2011. That we found to be a very positive and productive meeting.

As a preamble in our submissions we conveyed that which, in our judgement, must be a primary consideration, as follows:

"In the 1997 report "More Time For Business", the Federal Government's response to the 1996 "Bell Report" ("Time For Business"), the then Prime Minister, John Howard, in his Foreword stated, in part:

"Small business is the engine room of the Australian economy, a vital source of enterprise, innovation and jobs.

Small business is based on the self-reliance, initiative and vision of men and women with a commitment to hard work and the preparedness to take a risk to achieve their goals and ambitions. Small business is integral to the decentralised network of family, workplaces and community which is the most effective guarantor of freedom and choice.

Too often in the past, government has been a burden for small business. Government has appeared unable or unwilling to understand the special needs of small business and unaware of the impact of decisions on them."

Now fourteen years later, in CoSBA's judgment, those words are as cogent today as they were on the day they were written.

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The review of the Western Australian workplace laws provides the Government with an opportunity to demonstrate its willingness to understand the special needs of small business, not to burden small business with workplace laws that unnecessarily bind small business in red tape and legalistic processes, and be fully aware of the impact of its decisions on small businesses.

As a consequence of the Federal workplace laws covering businesses that are constitutional corporations, Western Australian workplace laws now cover the public sector and businesses that are not constitutional corporations, which are ostensibly small businesses, of which we are advised are approximately 60 per cent of small businesses in the State.

Accordingly, it is our submission that in reviewing Western Australian's workplace laws the Government adopt the advice of John Howard and give primary consideration to the needs and aspirations of small business, and not be influenced by those of "big business", that no longer have a role under the laws."

In our submission we also addressed the question of "workplace agreements", as follows:

"Notwithstanding the Minister statement in his letter concerning the "REVIEW OF WESTERN AUSTRALIAN INDUSTRIAL RELATIONS SYSTEM" that: "there will not be any changes to the current individual statutory contract provisions of the Industrial Relations Act 1979 ("employer-employee agreements")", CoSBA supports the recommendations of Amendola set out in "SECTION 13: EMPLOYMENT AGREEMENTS, 76 – 117.

In 2002 when the then Government called for submissions on its 'DRAFT LABOUR RELATIONS REFORM BILL 2002' that proposed the introduction of the "employer-employee agreements" (EEAs), CoSBA in our submissions stated:

"The proposed system of EEA's will only be attractive to a very few employers. Those who are extremely profitable and have no union members. Small businesses will not find them attractive as the cost of development and administration will not be able to be recovered from 'operational flexibilities.' Effectively it will force employers to work to Awards that are extremely difficult to interpret, are difficult to keep up to date, and are largely irrelevant to small business employers as they do not know which, if any, Award applies to them."

Nine years later our prophetic submission has proven to be the case. It was undoubtedly the strategy of the then Labor Government, at the behest of the unions, to discourage businesses from developing workplace agreements, and history clearly demonstrates that the strategy worked."

However, cognisant of political sensitivities concerning employer-employee agreements and as a result of our meeting with Ms Field we have revised our submission concerning employer-employee agreements.

In that we no longer support adopting the Amendola recommendations, but in lieu it is our submission that the current legislative requirements governing the development of employer-employee agreements (EEAs) be amended, in order to remove those requirements that operate as impediments to their being adopted and making them "user friendly" to small business.

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It is also our submission that the EEAs be approved by a Commissioner and must pass a prescribed "no disadvantage test".

In taking up the offer made by you at the meeting between us of 29 March 2011, to have a meeting to discuss issues concerning the changes to the WA industrial relations system, we look forward to having such a meeting, at a time considered appropriate by you, that we would suggest be at a time after there is a consolidation of the Government's proposed amendments to the Act.

Additionally, we would take this opportunity to thank you for your response of 27 April 2011 to our concerns with respect to the proposed National Business names Registration System.

Yours faithfully

**Combined Small Business Alliance  
of Western Australia Inc. (CoSBA)**



**OLIVER MOON  
Chief Executive Officer**

cc. Ms Lorraine Field, Director Policy and Legal, Labour Relations Division, Department of Commerce