



The CoSBA Broadcast

Small Business News



Combined Small Business Alliance of WA Inc.

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CoSBA meets Billson

On 27.9.11, four members of the CoSBA Board attended a small business forum with the federal Shadow Minister for Small Business, Bruce Billson MP, which was hosted by the Member for Hasluck, Ken Wyatt MP.



From left: Rod Henderson, Oliver Moon, Bruce Billson, Kyle Kutasi, Ken Wyatt & Stephen Knight

ICA joins CoSBA

We welcome our latest member the Independent Contractors Australia (ICA). The ICA is an influential and highly respected national small business lobby group under the very able leadership of Ken Phillips CEO.

AWA system saw real wage rises

STATUTORY individual employment agreements: it is probably the issue that induces the greatest antipathy, verging on hysteria, on the part of trade union leaders. Of all the innovations in Work Choices, the loudest criticism was reserved for the scope for a worker to enter into an enforceable individual agreement with their employer.

NEXT MEETING: SPECIAL BOARD MEETING
NECA, Unit 18, 199 Balcatta Road, BALCATT
18 October 2011

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This was notwithstanding the fact Australian Workplace Agreements had been permitted under the previous legislation, the Workplace Relations Act 1996. Typical of the grumblings is a comment made in 2001 by Richard Marles, then an ACTU officer, now a parliamentary secretary. "The real reason for AWAs is not only to individualise the workplace but in fact to undermine collective structures. Indeed, they are there to be used by employers to exploit the very fact that they are negotiating with people that have no bargaining power."

As part and parcel of the Accord between the Labor government and the ACTU, real wages grew by a mere 2.8 per cent in the period 1985-95 (as measured by adult male ordinary time earnings). In the next decade, real wages grew by 21 per cent. Between 2006 and last year, which covers both Work Choices and the global financial crisis, real wages grew by 10 per cent.

A period of deliberate suppression of real wages - offset by a number of social policy initiatives - has been followed by many years of rising real wages. On the basis of these figures, at least, there is nothing to suggest the scope for AWAs under the Workplace Relations Act or Work Choices made any difference to real wage growth.

It is of course useful to have a more detailed look at how wages behaved during the period when Work Choices was effective. Now the full-blown version was operational for only a brief period - March 2006 to May 2007 - before a fairness test (a form of no-disadvantage rule) was introduced. So taking the average weekly ordinary time earnings figures for this period, we find wages did not decline for either male or female workers. Indeed, male earnings went from \$1083 a week to \$1144 a week, an increase of 5.3 per cent, and female earnings went from \$910 a week to \$960 a week, an increase of 5.2 per cent.

Notwithstanding the common claim that AWAs were particularly damaging to female workers, this data simply does not bear out this proposition. A fair assessment of the Work Choices period is that some AWAs did strip away award conditions without full compensation. This occurred particularly in the award-reliant industries of hospitality and retailing. At the same time, there were many AWAs that provided for very generous packages for workers, more than offsetting any loss of conditions. This was particularly the case in mining.

The real objection of the union movement to individual contracts has less to do with how workers fare on these contracts and more to do with the threat to "collective structures" (Marles's term) and the incentive for workers to join unions. After all, at their peak, AWAs covered only 5 per cent of employees, although there is no doubt the option of individual contracts affected the context in which collective agreements were negotiated.

As long as there is a no-disadvantage rule in place, there really can be little objection to individual contracts. As jobs become more differentiated and knowledge-based and the workforce more diverse, any rationale for standardised collective agreements becomes weaker. (SOURCE/EXTRACT: *The Australian*, 20.9.11)

ACCI at odds with Abbott over contracts

A leading business lobby group intends pushing the coalition to revive a policy of individual employment contracts in the run-up to the next election. Opposition Leader Tony Abbott has ruled out a return to statutory individual agreements, as have some Liberal backbenchers.

But the Australian Chamber of Commerce and Industry says the issue was one of the "important mainstays" of its members' policy. "We will continue to advocate that position," the chamber's director of industry policy Greg Evans told reporters in Canberra on Thursday. "We have got a strong view that we need to retain flexibility in the Australian labour market." That "unambiguous position" would be put to the coalition in the lead-up to the next election." (SOURCE: *WA BUSINESS NEWS*, Daily Business Alert, 22.9.11)

Retailers want Libs to loosen IR chains

RETAILERS have urged Tony Abbott to propose allowing employers to strip back minimum employment conditions. They also want to reduce penalty shift payments and lock workers into individual deals for up to four years. In the wake of the Opposition Leader ruling out a return to individual contracts, the National Retail Association said the Coalition should devise a workplace policy that substantially changed Labor's system of individual flexibility arrangements.

Gary Black, the association's executive director, said the Coalition should scrap provisions permitting workers to opt out of the arrangements with four weeks' notice. Mr Black said employers should be able to strike deals that allowed them to pay lower or no penalty rates to employees who wanted to work, for instance, on a Sunday and not other days. "The greatest concern to the retail sector is the modern award itself, which dictates over time the terms in enterprise agreements," he said.

"The current IFAs in modern awards serve a political purpose. They are mere window-dressing. They do not deliver any additional flexibility and they are completely impracticable and not workable." Mr Black said the

opt-out clause provided to workers was "ridiculous". He said employers should be able to offer IFAs as a condition of employment to new employees.

Asked if workers would face a "take it or leave it" approach to potential employment, Mr Black said: "In a flexible labour market, that's exactly the way it should be. "Why should employers, if you like, not be able to negotiate those sorts of outcomes at the time of engagement?" (SOURCE/EXTRACT: *The Australian*, 23.9.11)

National workplace safety laws to rob some employers of rights

EMPLOYERS in South Australia are set to lose fundamental rights under the federal government's planned system of nationally harmonised workplace safety laws. Analysis of the scheme by the Independent Contractors of Australia has revealed that the impact of the new system on employers in South Australia will be similar to that in Victoria.

They will lose the right to silence and the privilege against self-incrimination whenever they face criminal charges over workplace accidents. "These rights are central to the integrity of the criminal justice system and people's confidence in the justice system," says an ICA analysis of how the changes would affect South Australia.

Tony Kerin, a director of the Australian Lawyers Alliance, said the ICA's concerns about the national system of occupational health and safety law were well-founded, particularly in the case of South Australia and Victoria. "The rush towards harmonisation by all governments over the past few years can mean people lose sight of the main game," Mr Kerin said.

Workplace relations lawyer Siobhan Flores-Walsh of Norton Rose said the new system would benefit companies operating in multiple states as it would ease their compliance burden. But those efficiency gains would not be available to companies that operated entirely within state boundaries. Yet these state-based companies would also face an increased risk of facing criminal prosecutions under the pending system, Ms Flores-Walsh said.

The ICA's analysis of the impact in SA says the scheme will also add to confusion about who is responsible for workplace safety. It says it would play down the importance of industry codes of practice and enable OHS safety inspectors to seize businesses without court oversight. (SOURCE/EXTRACT: *The Australian*, 23.9.11)

See attachment: [CORRESPONDENCE National Workplace Safety Laws.pdf](#)

Unions seek safety law changes

Unions will launch a major campaign calling for changes to occupational health and safety in what is likely to become a new battleground with the State Government. UnionsWA secretary Simone McGurk said delegates would petition at worksites and offices to force WA to adopt the national model on January 1 next year, when other States were due to harmonise laws.

UnionsWA would also run a print and radio campaign calling on the State Government to adopt the national regime. Ms McGurk said the Workplace Relations Ministerial Council agreed more than two years ago to harmonise occupational health and safety laws. She rejected claims from the State Government that the January 1 deadline was an impossible deadline for analysing the impact of the new regime, claiming there had been ample time.

Ms McGurk accused the State Government of delaying the new regime over five key points, including new maximum penalties. She said the State Government wanted the maximum penalty for serious breaches of occupational health and safety to be set at about \$630,000, although other States adopting the national model were lifting the fine to \$3 million.

But Finance Minister Simon O'Brien said harsh new penalties and other changes in the new regime could have a devastating impact on small businesses. He said about 95 per cent of the 225,000 businesses in WA had fewer than 20 employees. "The bottom line is that the time remaining before the proposed implementation date of January 1, 2012, is far too short to enable WA businesses to understand the new laws and to conduct training," Mr O'Brien said. "The State Government is not willing to place such an unnecessary financial and operational burden on WA businesses." (SOURCE/EXTRACT: *The West Australian*, 26.9.11) **See attachment: [CORRESPONDENCE National Workplace Safety Laws2.pdf](#)**

Red tape leading cost pressure: survey

IN the lead-up to Easter this year, the state government issued a special advisory note to retailers. It urged shopkeepers to check the trading hours and award rates they needed to adhere to over the extra-long five-day weekend that included Anzac Day. Shopkeepers will need to do the same in the lead-up to Christmas. Shops across Perth will be allowed to trade on Boxing Day, but only after 10am.

If they open the following day, which is also a public holiday, they can open at 8am. But on New Year's Day, most shops will remain shut - trading will be restricted to special trading precincts'. Of course, trading hours are different for small retail shops', which can trade 24 hours a day, and 'special retail shops', which can

trade from 6am to 11.30pm.

Western Australia's convoluted retail trading hours are just one example of the red tape that business needs to navigate. The scale of this issue has been highlighted by the Cost of Doing Business survey conducted recently by the Chamber of Commerce and Industry WA and *WA Business News*.

Survey respondents, representing a cross section of WA businesses, said that 'dealing with red tape and regulation' was their third largest cost pressure, after 'wages' and 'other labour costs'. Licensing rules, environmental regulation, state and local government planning rules, and paperwork associated with the tax system all caused concern among respondents to the survey. Compliance costs associated with occupational health and safety (OHS) regulations, workers' compensation and industrial relations were also a bugbear.

The CCI-WABN survey found that the burden of regulatory compliance has grown over the past five years. Sixty three per cent of respondents said their regulatory costs were higher, or much higher, over this period. A similar proportion said compliance costs and red tape had a tangible negative effect on their profits over the past five years. In most cases, they said their ability to expand had been compromised.

In WA, a report by the Red Tape Reduction Group estimated there were 844 Acts and 761 statutory rules in force, amounting to about 63,500 pages of regulation. The report also noted that WA has lagged behind other state and territories in terms of regulatory reform. Ironically, one area where it has achieved some success is retail trading; it has liberalised trading laws though the current complexity illustrates how more scope there is for reform. (SOURCE: *WA BUSINESS NEWS*, 22.9.11)

IR regime sees bosses struggling to 'hold the line' on productivity

BOSSSES are battling to maintain workplace productivity under the government's industrial relations regime, the head of one of the nation's leading employer organisations has claimed. Australian Chamber of Commerce and Industry chief executive Peter Anderson told *The Australian* that employers were "simply trying to hold the line" under current workplace laws.

"Unions who see industrial action as a legitimate part of the bargaining process are using threats of action as a form of economic coercion," he said. "That has been a significant factor in forcing businesses to concede claims on the least worst basis rather than the best possible.

But Workplace Relations Minister Chris Evans yesterday said the Fair Work Act was not to blame for falls in productivity, saying instead employers should be coming up with new ideas with enterprise bargaining. "If there are barriers to productivity we would encourage employers to use the enterprise bargaining to drive improvements to drive productivity," Senator Evans told *Sky News's Australian Agenda* program. "My sense is that there hasn't been much of that going on; there hasn't been much innovation." (SOURCE/EXTRACT: *The Australian*, 26.9.11)

O'Brien lifts small shop staff cap

Small retailers will be able to have up to 18 people working at the same time – 5 more than previously allowed – under changes to retail trading laws announced by the state government. Commerce and Small Business Minister Simon O'Brien said the changes to staff caps would be a welcome boost for both business and consumers.

"Small retail shops can open 24 hours a day, every day of the year if they choose and giving them the option to employ up to 18 staff provides an opportunity for more stores to trade 24/7 or to expand operations when they are open," Mr O'Brien said. "This will create greater choice and flexibility for consumers as well as boosting employment among small to medium-sized businesses in the retail sector; in turn stimulating the local economy."

Mr O'Brien said the Department of Commerce expects the changes will result in a jump in the number of new applications for small retail shop certificates; increasing the amount of shops which are allowed to open any time, any day of the year. (SOURCE: *WA BUSINESS NEWS*, Daily Business Alert, 23.9.11)

Businesses say red tape holding them back

Excessive government red tape is hurting the nation's productivity and stopping Australian companies from hiring more workers, a survey says. The Business Regulation report from the Australian Industry Group and Deloitte, which reflects the views of company chief executives, found regulations were "stifling workplace productivity".

Moreover, about one-third of respondents said regulations were a substantial barrier to employing more staff. "Business regulations are hampering the ability of chief executives to change work practices, engage in trade and introduce new products and services," Ai Group and Deloitte said in a statement on Tuesday.

Ai Group chief executive Heather Ridout said Australia's red tape burden was rising, not falling. "What is painfully clear from this report is the enormous burden business regulation is having on Australia's already

lagging productivity," Mrs Ridout said in a statement. (SOURCE: *WA BUSINESS NEWS*, Daily Business Alert, 27.9.11)

Business fears grow over carbon

The global economic slowdown and a lack of co-ordinated action on climate change have prompted fresh warnings that businesses face higher costs under Labor's carbon scheme and might move operations offshore where polluting will be cheaper. *The Fin* (SOURCE: *WA BUSINESS NEWS*, Today's Business Headlines, 28.9.11)

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