

1. INTRODUCTION

TRANSITION TO A NEW SYSTEM

During the first 90 years of our federation Australia developed a highly regulated industrial relations system that reflected an age when industries were protected from global competition and jobs in Australia were relatively abundant and protected by government industry and migration policies. Many groups were also effectively excluded from areas of the labour market, particularly Australian women.

The system developed in an ad hoc manner throughout the 20th century, extending beyond the structure for regulating employer/employee relationships contemplated by the framers of Australia's constitution. As it grew it became characterised by institutionalised minimum standard setting, compulsory conciliation and arbitration and considerable powers of influence and intervention by third parties – primarily industrial tribunals, courts and industrial organisations. This structure became unique amongst developed economies.

By the late 1980s Australia started to recognise that the global economy, increasing competition and greater mobility of capital and labour meant that new approaches to longstanding domestic policies were necessary. Revised industry, trade and financial policies meant that the centrally controlled Australian industrial relations system also had to change if we were to keep our high standard of living.

The challenge for Australia was to create an industrial relations system where decisions about wages, conditions of employment and the resolution of disputes could increasingly be made in the workplace where the circumstances and mutual interests of actual employers and employees would be paramount. The appeal of such a system was that it could provide the most effective way to lift economic performance and living standards through employers and employees working in conjunction with each other, not at each other's expense. The *quid pro quo* was that the

institutional third party structures, which dominated the previous system, would have to be modified and, at least in part, give way to allow the new system to operate.

The style of the new system was summarised by then Prime Minister Paul Keating in April 1993:

“Let me describe the model of industrial relations we are working towards.

It is a model which places primary emphasis on bargaining at the workplace level within a framework of minimum standards provided by arbitral tribunals.

It is a model under which compulsorily arbitrated awards and arbitrated wage increases would be there only as a safety net.

The safety net would not be intended to prescribe the actual conditions of work of most employees, but only to catch those unable to make workplace agreements with employers.

Over time the safety net would inevitably become simpler. We would have fewer awards with fewer clauses.

For most employees and most businesses, wages and conditions of work would be determined by agreements worked out by the employer, the employees and their union.

These agreements would predominately be based on improving the productive performance of enterprises, because both employers and employees are coming to understand that only productivity improvements can guarantee sustainable real wage increases.

We would have an Industrial Relations Commission which helped employers and employees reach enterprise bargains, which kept the safety net in good repair, which advised the Government and the parties of emerging difficulties and possible improvements, but which would rarely have to use its compulsory arbitral powers. Instead, parties would be expected to bargain in good faith.

We would have sufficient harmony between State and federal industrial relations systems to ensure that they all head in the same direction and used the same general rules.

That is the goal we are working towards.”¹

The process of opening the Australian workplace relations system to a greater enterprise focus commenced in the early 1990s with passage of the (then) Labor government’s 1993 *Industrial Relations Reform Act*. For the first time, a system of collective enterprise bargaining that could displace multi-employer award regulation was formalised.

The Federal Coalition Government’s *Workplace Relations Act 1996* accelerated that process. It more comprehensively established a framework which, although the product of political compromise, tried to move the primary focus of the system to collective and individual workplace agreements and away from centrally determined outcomes. Bargaining was given primacy over central regulation. Intervention rights in collective agreement making were limited. Awards were required to be simpler minimum standards operating as a safety net only. Tribunal powers to regulate the workplace and to intervene in bargaining were restricted. Systematic rights to freedom of association were enacted and individual agreement making was formally recognised. In addition, during the early to mid 1990s a number of state governments in Australia moved to restructure state industrial systems with similar – and in some cases – more substantial moves towards a decentralised workplace focus.

A further significant reform occurred in December 1996 with an agreement between the Federal Government and the (then) Victorian State Government for the referral of most state industrial powers to the Commonwealth, leading to a single regulatory jurisdiction which has operated in that state since 1997.

A very significant feature of the structural changes in 1993 and in 1996 was that they were taken by

Australian governments of different political persuasions. Despite the inevitable politics associated with industrial relations, there was bipartisan support (at least between governments) for the new direction in Australian labour relations. That in itself is powerful evidence that a decentralised style of labour market reform in Australia is in the national interest:

“For more than a decade now there has been widespread support for the policy of moving Australia’s formal workplace relations system away from its traditional focus on the centralised determination of wages and conditions of employment by industrial tribunals – through a system of industry and occupational awards – to agreements reached directly at the enterprise and workplace level.

Reforms to the wage setting arrangements began in the late 1980s with a growing recognition among Australians of the importance of ensuring greater international competitiveness by linking wages and improvements in conditions of employment to increases in productivity, skill and flexibility at the workplace level. The need to make enterprise based agreements a central part of the system has been endorsed by both major political parties, all major employer organisations, the ACTU, and the majority of individual unions although different approaches have been advocated.”²

STRUCTURAL REFORM SINCE 1996

It is only in the workplace that the true measure of improvements to workplace relations can take place. Workplace relations is, at the end of the day, the product of relationships between employers and their staff. Undoubtedly over the past decade there have been significant changes in the way that labour relations is conducted in many Australian workplaces. Wages, conditions of employment and living standards have increased on the back of strong productivity, a growth in agreement making and significantly fewer disputes.

The role of the 1993 and 1996 structural changes in producing these results was significant, albeit difficult to quantify. As with most aspects of economic and social change, a mix of factors contribute to outcomes. In some cases commercial imperatives, product markets and the evolving shape of the labour market have driven change. In many other workplaces the structural changes to the system have given the impetus and confidence to employers and employees to embark on new ways of developing their relationships and for setting wages, employment conditions and business objectives.

In all cases, the nature of the system and its regulatory institutions is crucial; it provides the legal framework around which commercially or industrially driven reform must be implemented. It shapes the possible. Depending on the content of the system, it acts either as an aid or a hindrance to workplace reform.

Since the commencement of the federal *Workplace Relations Act* in early 1997, amendment to the federal statutory framework has, at best, been incremental. This has largely been the consequence of an unsympathetic Senate, which between 1998 and 2001 rejected, delayed or amended large parts of the Federal Government's second term agenda. Corresponding with this period of parliamentary gridlock, labour market reform was also frustrated by legal action by some unions opposed to workplace change, some lack management leadership, by some decisions of courts and tribunals, and by some state governments seeking to re-regulate their state workplace relations systems.

The consequence is that, by the end of 2002, Australia has:

- An improved framework at a federal level and in some states, but one which has not moved significantly since 1997 and which remains complex and over regulated.
- An emerging move by state governments to re-regulate state industrial systems.

This scenario sends mixed and confusing signals to employers and employees in workplaces, particularly those at various stages of implementing workplace change on the premise of a less centralised system.

Australia is, at best, one decade into its transition from the nine-decade-old centralised system based on 19th century paradigms.

The concept of transition here is important. Having left for a new destination, we have not yet reached it. For some we still sit uncomfortably in the middle of two systems.

This is because the 1993 and 1996 changes did not displace the former system. They were introduced over the former system, not as a substitute. They were enabling, not compelling; they were reforms that allowed for but did not demand new workplace relationships. The nature and pace of workplace reform and the transition to the new system was left to be a product of the needs, choices, attitudes and decisions made at the workplace and by third parties over the following years.

PROGRESSING THE REFORM AGENDA

Workplace reform in Australia is unfinished business.

How then should Australia further the reform agenda it commenced in 1993 and 1996?

The current Federal Coalition Government went to the 2001 federal election with a commitment to:

“... create an industrial relations system that empowers employers and employees to build co-operative, productive and prosperous workplaces... to give greater choice and flexibility for workers wanting a better balance between career and family responsibilities... and to encourage job growth, job security and higher living standards for workers and their families.”³

The government's policy statement, *Choice and Reward in a Changing Workplace*, foreshadowed specific amendments to the federal *Workplace Relations Act* in the areas of unfair dismissal, industrial action, secret ballots, workplace agreements, right of union entry to workplaces, secondary boycotts, mediation and bargaining fees on non-union members.

The Australian Chamber of Commerce and Industry (ACCI) and the business community have broadly supported the direction of the Federal Government's changes in each of these areas, most of which were in the public arena (and the Parliament) well before the 2001 general election was held.

Important as they are, the incremental legislative changes foreshadowed by the Federal Government in its third term do not constitute the full agenda of labour market reform required in Australia. Government alone is not the answer.

The Prime Minister John Howard addressed this point in May 2002:

*"We've had a lot of industrial relations reform over the last six years, but we need more. I regard what we have done in the area of workplace relations as being essentially work in progress, we've made a lot of progress but we still have a distance to go. And I want to assure you that we will not weaken or tire in our efforts..."*⁴

What is needed is for the Parliament to consider these specific measures introduced in 2002 on their merits, and then for all parties including those in the workplace to focus on the remaining broader structural issues of labour market reform.

What then is that broader reform agenda?

Early in 2002 the federal Minister for Employment and Workplace Relations, Tony Abbott, issued a challenge to industry and representatives of employers to articulate, promote and implement an ongoing reform agenda.

At about the same time the federal Opposition announced that it would review its industrial relations policies as part of its policy review following the 2001 federal election. Since then, the Opposition has been willing to propose some amendments to workplace laws, rather than adopt a 'just say no' approach. The bipartisan passage in October 2002 of modernised governance arrangements for unions and employer associations is evidence of a more constructive approach to policy making.

The Australian Democrats, whose position in the Senate has been crucial to the fate of industrial legislation over the past decade, have also restated their commitment to assessing industrial proposals on their merits during this parliamentary term.

It is time for Australian industry to do what it has not done since the late 1980s – articulate an integrated plan to progress labour relations reform in Australia.

As the peak national body representing the interests of private employers in Australia, ACCI and its members have been, and continue to be, at the forefront of advocating the case for further labour market reform in Australia.

We said at the time the federal Minister issued his policy challenge in early 2002 that we would meet it.

In March 2002, the ACCI Council – which comprises a full cross section of representatives of Australian industry large, medium and small in all states and territories, passed a unanimous resolution which instructed its secretariat to prepare an agenda for progressing labour market reform in Australia.

This Blueprint is that agenda.

It outlines short term, medium term and longer-term reform proposals for the first decade of this century. It challenges governments, parliaments, unions, employer bodies and most importantly

employers and employees to improve workplace relations and lift workplace performance.

It identifies key policy principles, it audits the current system against those principles, and it makes specific proposals for further reform according to a designated timetable.

The ACCI Council adopted this reform Blueprint in passing the following resolution:

ACCI Council:

Acknowledges the gains that have been made in Australia over the past decade – and particularly since 1993 and 1996 - to reform the labour relations system by creating a greater focus on the setting of wages and conditions, and the resolution of disputes, at the workplace;

Notes that these reforms have significantly contributed to beneficial economic and industrial outcomes over this period for employers, employees and the community as a whole;

Recognises the significant role that many individual businesses, their staff and their representative organisations have played in delivering these outcomes;

Notes that the direction of the workplace reforms during this period has been consistent with the policy objectives of ACCI but has fallen short of its full implementation;

Expresses concern that a number of impediments to further reform have become evident over this period, including obstructionism within the Parliament, some adverse Court and tribunal decisions, hostile attitudes within some trade unions and regressive industrial policies by some State governments;

Welcomes much of the single-issue labour relations reform proposals being pursued by the Federal Government through the Parliament in its third term but notes that

reform beyond those proposals remains necessary for national well being;

Affirms that further progressing the task of labour market reform in Australia should be set as a national priority;

Endorses and adopts the strategies outlined in the ACCI Labour Relations Reform Blueprint 2002-2010 as the next steps needed in a strategic plan that will implement objectives of the ACCI Labour Relations Policy for the betterment of Australian businesses, employees, jobs and living standards;

Commends the ACCI Labour Relations Reform Blueprint 2002-2010 to all participants responsible for labour market reform in Australia and calls for the adoption of a fresh and open-minded approach in the national interest for continued labour relations reform in Australia.

This Blueprint is not intended to be an exhaustive or set agenda. It is to be updated, refined and reviewed over the course of this decade. Given its primary focus on workplace relations, it does not include many other aspects of workplace and employment policy that must be addressed by policy makers and which have direct impact on labour market outcomes.

To this end, ACCI is undertaking complementary policy work in areas such as:

- Occupational health and safety.
- Rehabilitation and workers compensation.
- Employment services.
- Education, training and skill development.
- The transitions from school to work and welfare to work.
- Policies associated with the ageing of our population.

For example, significant national policy analysis is undertaken by ACCI through industry representation on the National Occupational Health and Safety Commission, as well as work associated with the tri-partite National OHS Strategy released in May 2002 and the development of an ACCI forward agenda on OHS workplace safety and policy priorities.

ACCI does not present this agenda to governments, parliamentarians, employers, employees, unions, policy makers and the Australian public, for abstract or theoretical purposes.

Australian employers believe in labour market reform because they know that a modern industrial system is the only way we can confidently grow our national wealth, grow our businesses, increase our living standards, secure our existing jobs and attract new jobs into our cities, our regional areas and our local communities. A modern workplace, with best practice workplace relations, is a key to a modern and better future.

Building on the half complete workplace reform agenda in Australia is no easy task. Difficult decisions and choices have to be made. This is

particularly so given that the debate over industrial reform has so often been polarised with entrenched positions adopted in the political and industrial arenas. It was difficult to start the process and yet Australia did – with an impressively high degree of bipartisan consensus. With goodwill and common sense we now have to build on the foundations that have been laid.

We welcome your constructive participation in this most important of public policy debates.

NOTES

- ¹ Prime Minister Paul Keating, (1993) Speech to the Institute of Company Directors, Melbourne, 21 April 1993
- ² Department of Employment and Workplace Relations and the Office of the Employment Advocate (2002) Report on Agreement Making in Australia under the Workplace Relations Act 1996, June 2002
- ³ Liberal Party of Australia (2001) Choice and Reward in a Changing Workplace, Election Policy
- ⁴ Prime Minister John Howard, (2002), Speech, 28 May 2002

1.1 WHY WE NEED WORKPLACE CHANGE

- Throughout the past two decades, workplace reform, involving as it does our jobs, incomes and working arrangements, has never been far from public debate and controversy.
- Opinions and counter opinions have been expressed about the best framework for a system of workplace relations. Theorists, academics, experts and almost everyone else have had their say. Some saw no need to fundamentally change the centralised system:

“...we reached the conclusion that no substantial case has been made that industrial relations would improve if conciliation and arbitration were abandoned in favour of some other system, such as collective bargaining.”
Committee of Review on Australian Industrial Relations Law and Systems⁵

- On the other hand, others saw greater prospects for a reformed system:

“Changes in industrial relations arrangements were seen as necessary to bring about better utilisation of both workforce skills and work time, to enhance the ability of firms to modernise their human resource practices, and to promote more co-operative relationships.”
Professor Mark Wooden⁶

“The new wage bargaining strategy is a strategy designed to create more interesting and financially rewarding jobs, by stimulating greater worker involvement in all aspects of the way their industry and workplace operates, thereby driving enterprise reform and pushing up productivity levels.” Former ACTU Secretary, Bill Kelty⁷

“We are unquestionably moving towards a system in which the primary emphasis is on workplace bargaining, underpinned by awards. A system where for the majority of employees, wages and conditions of work are covered by workplace

agreements – agreements between workplace participants. Agreements that are tailored to the needs of individual enterprises, and based on improving the productive performance of those enterprises” Former Minister for Industrial Relations, Laurie Brereton⁸

“Workplace relations reform can deliver significant benefits to employers and employees, and the community generally. Increased labour market flexibility and reduced regulation contribute to greater productivity and competitiveness. They are important for sustained economic and employment growth and improved living standards. Such reform is also necessary to enable small businesses to thrive and create employment. At the same time, moving away from a centralised and prescriptive approach can enable employees to have more say at work; to have their interests catered for in more flexible work arrangements; to be better rewarded for their particular efforts and skills; and to have real wage increases and more job security.” Former Minister for Employment, Workplace Relations and Small Business, Peter Reith⁹

“We desperately need a complete break from the old system – a new start that would provide the opportunity for establishing a new province of law and order based on voluntarily agreed exchanges of individual rights and obligations by the parties directly involved. By drawing on the lessons from our own past, and from those with less regulated labour markets, such a new start would offer the potential for Australia to jump from being well below world best practice to number one.”
Des Moore, Institute for Private Enterprise¹⁰

- Influential international bodies, such as the OECD, have concluded that “increased flexibility of working time, making wages and labour costs more flexible and reforming employment security provisions”¹¹ are essential policy components of a ten step micro-economic reform agenda capable of delivering

sustained growth in employment and living standards in domestic economies. In recent years the OECD has repeated these observations in the context of examining and specifically endorsing the general direction of labour market policy changes made in Australia in 1993 and 1996, and calling for further structural changes in legislation and in workplaces.

“The benefits of a comprehensive approach to structural reform have become apparent in the pick up of Australia’s multi-factor productivity growth...better management practices and work arrangements have improved capital productivity...”

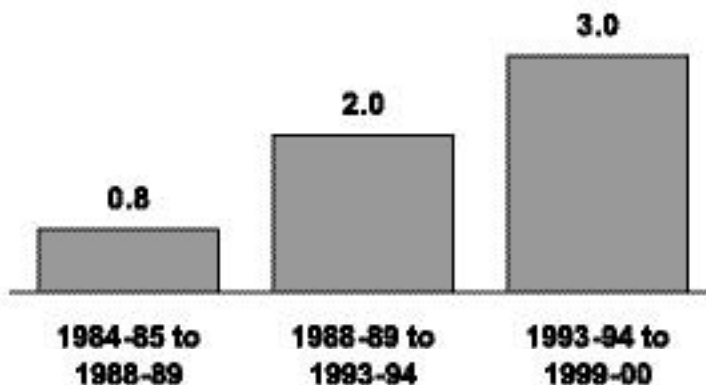
The flexibility of the labour market has increased by the move towards a more decentralised system of setting wages and other conditions of employment, but there is a need for more effective decentralisation...The reform process needs to be completed in the light of Australia’s level of structural unemployment and the need to sustain the improvement in productivity performance.”¹²

- The advantage we now have in Australia is that this debate need not be conducted in the abstract. For a decade we have had a measure of labour market reform occasioned by legislative changes in 1993 and 1996. We might still be in an uncomfortable hybrid of the old, highly centralised system and a more

decentralised, less regulated system, but there is scope to assess our limited experience of workplace change.

- Despite the incomplete nature of the reforms, and their imperfect operation, the decade long reforms have contributed (not solely, but as a significant contributor) to a powerful combination of positive outcomes:
 - Inflation – it is lower.
 - Productivity – it is higher.
 - Real wages – they are much higher.
 - Interest rates – they are lower.
 - Disputes and strikes – they are dramatically lower.
 - Number of people in jobs – the highest it has ever been.
 - Unemployment – it is considerably lower.
- These are a conjunction of outcomes that the architects of the reform process in the early and mid 1990s could barely have hoped for. They are a combination of trends that had eluded Australia for decades. The results have been to the national good – and as a nation we should be ambitious for even better outcomes in future years:

Labour Productivity Growth (%) 1984-2000¹³





“Much of the economic policy shift of the last two decades, including workplace reform, has been directed at improving Australia’s growth rate of productivity. Productivity is a key performance measure for the economy – it underpins international competitiveness and is fundamental to sustained improvements in living standards. Productivity represents the ability of the economy to employ its resources, both human and capital, to produce output (and therefore income).

The impact of workplace reform on the labour market and the economy more broadly is difficult to quantify as it has occurred in an economic environment characterised by rapid technological and structural change... There are a number of indications however that the process so far of reforming Australia’s complex industrial relations system has had profound effects on many industries. It has been an important factor in reducing labour inefficiencies and increasing the flexibility of working conditions... It has also contributed to keeping wage increases broadly in line with productivity growth during the economic recovery of the 1990s allowing a virtuous combination of low inflation, rising real wages, good productivity growth and rising profits.”¹⁵

“... structural reforms undertaken in Australia during the past two decades were the principal factors underpinning the pick up in productivity growth. The effect of such reforms may not yet have emerged in full, nor has the scope for further reform been exhausted.” OECD¹⁶

- Importantly, these outcomes have had a positive impact on wages and living standards of lower income earners, not just managerial or executive staff. For all of us, our jobs, our incomes, our purchasing power, our employment conditions, and our capacity to care for and maintain ourselves and our families in our lifestyles are based upon our economy and our labour market operating at the best possible levels.
- It has often been said, correctly, that Australia has had a unique system of regulating industrial relations. Whilst some elements of that system served Australia well, others did so only in the context of a domestic and world economy of decades past. Others simply did not. The challenge now for policy makers is to keep developing the best possible regulatory structure to meet our national interest – applying some of the values of the former system to our modern economy, our international competitiveness and our diverse labour force. Addressing the outstanding reform issues outlined in this Blueprint would still produce a system unique to our own character and traditions – but one which meets these imperatives.
- As important as it is to keep reforming the system, Australia must guard against slavishly applying international policy or credo. The experience of some western European countries to load up employment regulation at a central source suggests that even a

bargaining system can lure governments into centralised policy approaches that are hostile to good employment outcomes. Some of these European governments are now seeking to unwind such policies. The lesson for Australia is that moving to a decentralised system, as advantageous and essential as it is, will not in itself be insurance against hostile central regulation by a government of the day. The fact that some State governments in Australia are moving to re-regulate employment laws through their parliaments as a policy response to decentralisation of the federal system is illustrative of this point.

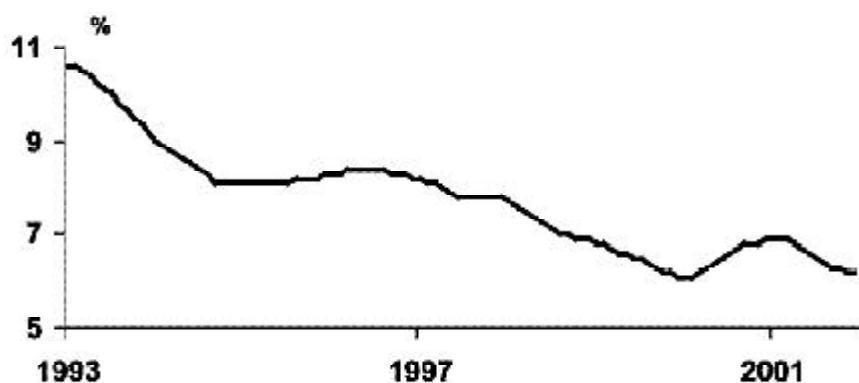
- After almost a decade of consensus about the desirability of a decentralised enterprise bargaining system, organised labour in some pockets of industry is showing some signs of hostility towards the enterprise bargaining system. Recent evidence of this trend can be seen in:
 - ACTU policy advocating legal dominance of collective union bargaining over other forms of collective non-union or individual bargaining or contracting.
 - Support given by the ACTU for legalising strike action in advance of industry-wide union pattern bargaining.
 - The establishment by some unions of a technique for common expiry dates for enterprise agreements in order to create a basis for industry wide – not enterprise - bargaining.
 - The AMWU led Campaigns 2000 and 2001 and the foreshadowed Campaign 2003.
 - The failure of the Federal Parliament, to date, to legislate against the common expiry date technique, and to restrict protected action to enterprise and not pattern bargaining.
- Policies within the labor movement which support pattern bargaining, and which propose the abolition of individual agreements.
- There is also an emerging trend, more evident in the 2001/02 period, of an increasing move by the organised labour movement towards the arbitral system and award structures. Evidence of this trend can be seen in:
 - ACTU policy on central regulation of working hours having been progressed in 2001/2002 via an arbitrated test case on working hours in the Australian Industrial Relations Commission (AIRC) (the first major test case on working hours since at least the 1980s).
 - ACTU policy on increased redundancy and termination entitlements being progressed through arbitral proceedings in the Federal and State tribunals.
 - Further foreshadowed ACTU test cases on casual and part time employment, work and family and redundancy in arbitral tribunals.
 - Union applications for award regulation in the call centre and labour hire industries.
 - The desire by the Victorian Government to re-create a conciliation and arbitration based State tribunal or a version of it.
 - The increasing arbitral powers given or sought to be given to state tribunals by state governments in Western Australia, Queensland, New South Wales and Tasmania, and the review being undertaken in South Australia.
 - Widespread union roping in logs of claim such as the one served on almost 20,000 employers in the Victorian retail industry.

- ACCI and its members are concerned about these efforts to move away from a bargaining regime to an award based system, and to compromise the bargaining system through pattern bargaining techniques.
- A decade ago it was a well recognised necessity, accepted on a bipartisan basis, that the modern economy and the modern labour force Australia needed, dictated a new approach to workplace relations. The necessity of a decentralised bargaining regime was understood and accepted.
- In the first decade of this millennium that imperative is starker than ever.
- Over the past decade global economic forces have intensified. Our Australian workplace relations system is still more regulated, and is still out of step with the major trading economies with which we must compete. The global economy will not wait for us to catch up.
- The 1993 and 1996 changes did not establish a decentralised system – they were only steps on the way that had to, and need to, be built on.
- The future will not see our labour market moving back to the uniformity or homogeneity of the middle 20th century. Indeed the opposite is true – each year it will become more diverse, with greater mobility of capital and labour and more mechanisms for entry, exit and re-entry into the world of work.
- Nor has Australia come anywhere near solving its employment problems. There are still over 600,000 Australians unemployed and, despite the sustained gains of recent years, unemployment in 2002 remains stubbornly in excess of 6%.
- Youth unemployment is still three times the level of general unemployment.
- The community is making greater demands for more action to establish pathways for people to move into the workforce from school and from the welfare system. The level of unemployment in our country is a matter of our choice – if we choose the right policy pathway, and continue down that path, then we will lower unemployment. If we choose to relax, to take our eye off the real forces that create jobs then our unemployed, and our community, will continue to pay a very high price:

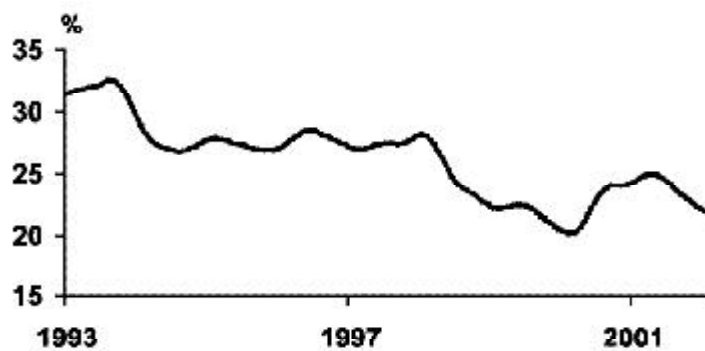
“The progress made in structural reform has also resulted in a marked reduction in the structural rate of unemployment to around 6 per cent. However, despite the progress made the rate remains too high. This points to the existence of continuing impediments to the effective operation of the labour market affecting industrial relations...”
OECD¹⁷

“Policy makers – like navigators on a long voyage – should periodically check their bearings to verify that they are on course. Nearly a decade has now passed since the OECD proposed a comprehensive blueprint

Unemployment Rate: 1993-2002¹⁸



Youth Unemployment Rate: 1993-2002¹⁹



for labour market reform, the so-called Jobs Strategy... The results to date of the Jobs Strategy are encouraging overall, although much unfinished business remains... Because of the improvements in underlying labour market performance, it is tempting to conclude that the reform effort could be slackened. However this would be ill advised for several reasons. First, even allowing for the recent cyclical downturn in much of the OECD area, unemployment and long-term joblessness remains unacceptably high in many countries. Second, even in those countries having achieved significant improvements in overall performance, large pockets of inactivity (defined as persons of working age who are not in the labour market) remain to be addressed.” OECD Employment Outlook, June 2002²⁰

“Efforts to bring people into the labour force will be assisted by further changes in the industrial relations system that would enhance the flexibility and efficiency of the labour market... Representatives from the business sector and labour unions agreed in general that long-term unemployment remained an important problem and that further reforms were needed... Whilst much has been done, additional reforms would help over time to bring the unemployment rate significantly below 6 per cent and to raise the economy’s potential growth rate on a sustainable basis.” International Monetary Fund²¹

- This theme was neatly expressed in an article on the Australian labour market in the April 2002 edition of *Quadrant*:

“By even the most conservative measure, there are about 660,000 people who want paid work but cannot find a job. Taking a broader approach the official figures suggest a shortfall of up to two million jobs despite ten years of solid economic growth, and a community that says it wants the government to do something about the problem... the most serious problem now that must be dealt with on the way to solving the unemployment problem is simply complacency – the view that 7% unemployment is not too bad.”²²

- This is why Australia cannot afford to take a step backwards on labour market reform – particularly since we have only taken a few of many necessary steps forward . In 2002, Australia does not have the luxury of saying that we have done enough, or that labour market reform was experimental. It was not an experiment in 1993 or 1996; it was – and is – a national imperative.
- Indeed, whilst the 1993 and 1996 reforms are still seen as controversial in some quarters, there is a widespread community acceptance of the principles on which they were founded (choice, flexibility, freedom and fairness) and the imperatives which brought them on (productivity, competitiveness, economic and social change). These accepted principles include the concepts of freedom of association, choice in agreement making, primacy of employer and employee interests over third parties, and safety net regulation rather than central regulation by ‘one size fits all’ rules.

- More fundamentally, there is no good reason to move away from the basic principle that workers and employers in each business should choose how they want their workplace relationship to be conducted and regulated. Choice means options, and the freedom to be able to use the approach which best suits. Importantly, not all businesses and not all employees will need to or seek to avail themselves of the choices. A decentralised system should not compel, for example, formal bargaining beyond minimum standards – but must provide for collective and individual agreement making options. For example, some smaller businesses have not historically and would not, in the near future, be likely to seek to formalise agreements. This must be recognised in the development and evaluation of the decentralised system.
- Retreat from the goal of a decentralised workplace-based system would jeopardise the economic and social gains that Australia and Australians have received from the decade long reform process.
- The economic and social benefits of workplace change cannot be assured or guaranteed into the future. The world owes no employer success in business or any employee the guaranteed security of his or her job. Business success and job security, like the level of employment, will be a product of the hard decisions we will continue to make as a nation. Further flexibility in our workplace system is a key pathway to the gains that have already been made in our businesses and to our living standards.
- Industrial reform benefits all of us - a stronger Australia for our businesses, our employees and our families. It is about and for people – business people and working people.
- In a governmental context, this is a message not just for the federal government and the

federal parliament, but also state governments and state parliaments, which still have responsibility for many aspects of employment law and regulation.

- Indeed, it is a message for the whole community.

NOTES

- ⁵ Committee of Review on Australian Industrial Relations Law and Systems (Hancock Committee) (1985) Report, April 1985
- ⁶ Professor Mark Wooden, (2000) Melbourne Institute of Applied Economics
- ⁷ ACTU Secretary Bill Kelty, (1995) Evatt Foundation.
- ⁸ Minister for Industrial Relations, Hon. Laurie Brereton MP, (1993) Speech “The Future – Awards and Enterprise Agreements”, 6 August 1993
- ⁹ Minister for Employment, Workplace Relations and Small Business, Hon. Peter Reith MP, (1999) The Continuing Reform of Workplace Relations, May 1999
- ¹⁰ Des Moore, (1998) The Case for Further Deregulation of the Labour Market, Report prepared for the Labour Ministers Council, November 1998
- ¹¹ OECD (1994) OECD Jobs Study, (*recommendations 4, 5 and 6 of OECD Jobs Study, 1994 OECD Ministerial Council*)
- ¹² OECD (2001) Economic Survey Australia 2001
- ¹³ Parham, D. (2002) Australia’s Productivity Surge and its Determinants, National Bureau of Economic Research (NBER) East Asian Seminar on Economics, Melbourne
- ¹⁴ ABS Cat No:6302.0 and 6401.0 - Trend Data
- ¹⁵ Department of Employment and Workplace Relations and the Office of the Employment Advocate (2002) Report on Agreement Making in Australia under the Workplace Relations Act 1996) , June 2002
- ¹⁶ OECD (2001) Economic Survey: Australia
- ¹⁷ OECD (2001) Economic Survey: Australia
- ¹⁸ Source: ABS Cat No.:6202.0, Table 6. Unemployed Persons: Trend
- ¹⁹ Source: ABS Cat No.:6202.0, Table 6. Unemployed Persons: Trend
- ²⁰ OECD (2002) Employment Outlook, June 2002
- ²¹ International Monetary Fund (2002) Report on Australia 9th August 2002)
- ²² Ian Henderson, (2002) ‘Unemployment – The Secret Crisis’, Quadrant, April 2002

1.2 EMPLOYER AND EMPLOYEE RELATIONSHIPS

ACCI POLICY PRINCIPLES:

“ACCI supports a labour relations system that is characterised by decentralism and voluntarism, under which primacy is given to the interests of the direct employer and employee parties to the employment relationship. ACCI believes that only employers and employees can select the approach that best suits their particular circumstances and maximises their prospects of reaching appropriate agreements of highest mutual benefit.”²³

POLICY AUDIT & ANALYSIS:

- Workplace relations involves much more than the legal framework established by governments, parliaments or regulators. The legal system regulates aspects of the workplace relationship and may facilitate or block certain outcomes but it cannot create it nor determine its actual character. Only employers and employees in the workplace – individually and collectively – can do that.
- The relationship between an employer and an individual employee or a group of employees has many characteristics. At one level it is a relationship based on mutual interests and mutual convenience leading to the production of goods or services, standards of living, employment, and careers.
- The relationship is dynamic and changing. It is a human relationship. Its intensity and quality ebbs and flows according to circumstance and behaviour. It is also a commercial relationship where mutual interests also carry corresponding rights and obligations.
- Whatever the status of the employment relationship, it is evident that the sheer diversity of employer and employee circumstances requires a flexible system that is able to respond to the economic and industrial dynamics of the day.
- Managerial leadership is an important determinant of workplace performance. Getting the most out of employer/staff relationships requires co-operation, mutual respect, trust and communication. The formal system, with its inherent tendency to intervene in the relationship and impose third party structures, must be designed to support rather than diminish these characteristics.
- The thrust of the 1993 and 1996 changes to the system have given a higher regard to the importance of the workplace relationship. The 1996 changes reflected this priority in their objects. For example the primacy of agreement making, the restrictions on third party intervention and the formal recognition of individual bargaining (in addition to collective or group bargaining) have provided new scope for employment agreements, formal or informal, to reflect the full content of wages and conditions agreed between an employer and staff members. This type of structural change to the system has seen workplace relations move more closely into the human resources field. Employers and employees have been empowered with some autonomy from the system and with more choices in workplace agreements. Human resource management has become more integrated into workplace relations practices and policies. This is a sign of maturity in our workplace relations practices.

- This approach appears to have retained general bipartisan political support in Australia:

“Many Australians are still conditioned to see labour and capital as antagonists in the class war rather than partners in a common enterprise. Good managers understand that loyal, skilled staff are about the best asset any business has.” Minister for Employment and Workplace Relations, Hon. Tony Abbott²⁴

“These [1993] reforms were based upon partnerships being formed in the workplace. Perhaps for the first time in Australia’s industrial history the focus became on partnerships to grow the cake, not simply adversaries fighting over how to divide it.” - Shadow Minister for Industrial Relations, Robert McClelland²⁵

- Despite these objectives being clearly expressed in the current system, there are still many gaps between principle and practice. In some cases this is a product of workplaces themselves not accessing the full range of options the system provides to develop closer working relationships between management and staff. However the system still presents, in practice, many impediments to businesses or staff members that seek to pursue this course. There remains a need to continue to simplify agreement making requirements and limit unwanted third party intervention if the objectives of promoting direct employer/employee relationships are to be fulfilled.

- There is also an educative role required to help overcome some preconceived notions about the nature of the private sector and private workplaces. Private employment is the product of risk-taking, investment and entrepreneurship by employers. Profit and prosperity underpin jobs and living standards. Investing capital in a business and offering employment are calculated risks where success is not guaranteed.
- Employees and prospective employees will be in a better position to develop meaningful relationships with employers, and understand their own exposure to risk, if a commitment exists to the principles that underpin private employment and entrepreneurship. Equally employers will be best placed to increase productivity and reward staff performance when a co-operative workplace culture exists which recognises and values the contributions that staff make to the business.

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²³ ACCI Labour Relations Policy

²⁴ Minister for Employment and Workplace Relations, Hon. Tony Abbott MHR, Speech to Queensland Industrial Relations Society, 5 July 2002)

²⁵ Shadow Minister for Industrial Relations, Robert McClelland (2002) Speech to Industrial Relations Society of New South Wales, 17 May 2002

RECOMMENDATIONS:

Objective 1: Maintain and increase awareness within industry and the workforce of options for employer/employee relationships to be formalised through workplace agreements recognised by the workplace relations system.

Objective 2: Build a stronger community understanding of and commitment to the characteristics and positive contribution of the private sector and private workplaces to our economy and society.

1.3 PROMOTING REFORM

ACCI POLICY PRINCIPLES:

“ACCI recognises that the formal labour relations system (embodied in federal and state legislation) constitutes only one part of the key to genuine industrial reform for the future. There is also a need for genuine reform in the thinking of both Australian employees and their employers at the workplace level.”

“ACCI’s overarching policy objectives are:

- To convince all political parties, and the community in general, of the necessity for further labour market reform.
- To remove misconceptions and concerns about the effects of labour market reform.

ACCI strongly believes that any workplace reform must be organic and driven ‘from below’ by the needs and desires of Australian employees and employers.

ACCI’s labour relations policies and strategies reflect the importance of workplace change as a driver of legislative reform. ACCI will seek to place an enhanced emphasis on changing workplace attitudes and practices in pursuing its policies and strategies.”²⁶

POLICY AUDIT & ANALYSIS:

- Workplace reform in Australia is a combination of legislative reform and change in industries and individual businesses.
- For change to occur at either level there must be acceptance of the nature of the changes proposed, and recognition that the changes are beneficial to employers and employees. Without a genuine belief in the benefits of workplace reform, agreements will not be consummated or legislation will not be enacted.
- Recognition of the benefits of workplace reform, of the empowering nature of a decentralised system focusing on workplace decision-making, is a product of medium and long-term attitudinal shifts in workplaces. Governments, politicians and policy makers can provide leadership. But workplace cultures embrace reform through leadership in the workplace, and from employers and employees and trade unions that adopt a constructive, service oriented approach to dealing with employers and their members.
- There have been shifts in workplace cultures in industries and enterprises since the introduction of bargaining into the formal system in Australia in 1993. Some have been driven by management, some by employees and unions in cooperation with management, and some by changes to product markets and economic conditions. There have always been well-managed workplaces with high degrees of co-operation, over-award agreements, workplace incentives, and rewards for businesses and employees. Equally there have always been backward attitudes in some workplaces with either a ‘them and us’ culture or an attitude that unquestionably imposes the

rules of the system in the workplace without using available opportunities to drive change in a participative manner.

- There are also differing degrees to which businesses of different types and sizes can embark on workplace reform. Smaller businesses have fewer resources to devote to people management and systems management, and develop more informal arrangements than contemplated by the formal system to achieve flexibilities and productivity. Businesses of all sizes, in periods of economic or commercial downturn, deal with immediate priorities and have lesser resources to devote to medium and long-term change.
- The changes advocated in the ACCI policy, and those made to the federal system in 1993 and 1996, can only be effective when combined with a widespread understanding of the reform agenda, the choices and options available, their economic and social benefits, and if they are capable of simple low cost application.
- Many of the reform options have not reached their full implementation potential. In some cases this is a combination of commercial circumstances and priorities. Businesses are, after all, commercial trading institutions and they must operate according to commercial priorities. Therefore the reform agenda must be commercially attainable – this means the lowest possible costs of implementation and the fewest possible obstructions to implementation.
- The current federal and state systems continue to impose significant transaction and compliance costs on employers and employees embarking on reform using the formal workplace relations system. Agreement making requires a formal process which is still unduly complex – but there have been some administrative improvements in recent years (particularly in the making of Australian Workplace Agreements).

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²⁶ ACCI Labour Relations Policy

RECOMMENDATION:

Objective 1: ACCI, as the peak body representing the interests of private employers in Australia will foster public debate about the ongoing direction of future reform, and prepare and distribute information of an educational and analytical nature which promotes the benefits of workplace reform.