



THE ACTU SAFETY NET CLAIM - A STUDY IN ECONOMIC UNREALITY

The Australian economy has fallen on hard times. The growth rate is negative, investment levels are falling, the level of unemployment has begun to rise and business confidence is low. Yet even with all of this, the ACTU proposes to lift all award rates by between 5.7 and 7.0 percent, with the highest percentage increases reserved for those at the lower end of the award rates scale.

A large proportion of the workforce are paid according to the award rate. This is particularly the case in the services sector, such as hospitality, retail and community services. Award rates are of particular importance in rural and regional Australia, in States other than NSW and Victoria, and especially amongst small business. For these businesses the increase in the award rate will be a direct and major increase in costs.

It is for these businesses that the ACTU proposes to increase award rates and therefore labour costs by 7 percent at the Federal Minimum Wage level and by no less than 5.7 percent for anyone paid according to the award.

As to productivity offsets, there would be none. If the ACTU had its claim succeed, there would be no workplace changes demanded in exchange for these increases. There would simply be a rise in costs with no improvement in efficiency.

THE ECONOMY

The December quarter 2000 National Accounts data have now shown that the economy has moved into reverse. The level of private sector investment in the December quarter alone fell by 9.6 percent. What momentum there had up until now been has completely disappeared from the economy.

Although they have not been as large a problem as in the past, increases in the safety net have played a role in slowing activity, while the impact of international factors, such as the rising cost of oil and a weak Australian dollar, have also

I N S I D E

Labelling of Genetically Modified Food.

The new standard for the labelling of genetically modified food is due to come into effect in December 2001. This new standard is certain to be challenging for the food industry and consumers alike. The uncertainty within the Standard needs to be addressed. [PAGE 4](#)

Corporate Code of Conduct Bill Fundamentally Flawed.

Firms operating abroad, especially in developing countries, bring with them skills and technologies which can benefit the host countries. Unfortunately, a Bill currently before Parliament is likely to have a profoundly adverse impact on firms looking to operate in some developing countries. [PAGE 7](#)

Employer Incentive: The "Simple Message."

A new simple scheme is proposed to encourage business to take on and continue to employ New Apprentices. In addition, innovative ways need to be introduced which encourage employers to train existing employees. [PAGE 10](#)

significantly contributed to this economic slowdown. The most important characteristics of the economy at present are these:

- A falling level of national output and a large reduction in investment;
- A weakening in employment growth, with a significant fall in the number of full-time jobs in the period since September 2000;
- A gradual increase in unemployment in the period since September 2000;
- As noted by the Reserve Bank, when the effects of the introduction of the GST are removed, the growth in the CPI in the four quarters to December was approximately 2%. The December quarter movement in the price level was an unexpectedly low 0.3% which indicates just how tight the economy has become;
- A rise in the Wage Cost Index (WCI) at December rose of 3.4% across the year;
- As GST revenues are totally remitted to the Australian Tax Office, the growth in the real cost of labour, using the CPI with the effects of the GST removed, of over 1%;

This is no economy in which across-the-board award rate increases can be remotely afforded.

THE COSTS ARGUMENT

For some time the ACTU has been engaged in a curious game of pretending the obvious cost increases imposed by the award

increases they receive do not actually exist. One particularly damaging aspect of the game is the pretence that increases in award rates have no effect on employers engaged in enterprise bargaining, or employers who pay over-award payments. Simple common sense would suggest that there is some effect, and that it is not a limited or trivial one.

You cannot, for example, give money for nothing through an award increase and then expect employers engaged in bargaining to be able to demand some productivity change for that part of the increase that does no more than match what has been granted as a safety net. Obviously unions will expect that part of the increase to be money for nothing, and employers will find it very difficult to resist. Whatever is granted as a safety net will be the minimum payment.

Similarly, simply because employees receive over-award payments, and employers have the right to absorb, does not mean that absorption on the increases granted into over-award payments will take place automatically. It will not. Employers will often not absorb because employees will expect to receive the safety net increase. They will not absorb because they need to retain good experienced and skilled staff, or because of a need to match the market, or because unions will insist on it. There is no mystery to this. This is what happens every day in every workplace, and yet during Wage Case proceedings this sort of everyday occurrence is routinely denied, and a pretence is made that it does not happen, or if it does happen that it is trivial. It does happen. It is not trivial.

There is a real cost dimension to the ACTU claim even in those sectors where not many employees are actually paid only the award rate. It is time that we recognised this and gave it some weight.

HOUSEHOLD POVERTY AND LOW INCOME EARNERS

One of the most important aspects of this debate over the safety net is that there is little correlation between 'low paid employees' and low income households. There is undoubtedly some but its incidence is greatly overstated. Because the correlation is so poor other means such as social security measures are widely accepted as the best policy response to household poverty. When the award rates of low income earners are raised what you are in fact doing is raising the price of what are often already marginal employees, vulnerable in their employment to price fluctuations, but you are also largely benefiting employees in medium or high income households.

Harding and Richardson, for example, found in a 1999 study that few low wage earners are genuinely poor. It defined low paid employees as adults earning less than \$10 an hour and young persons earning less than \$6 an hour, basically those on the Federal Minimum Wage, and found that only six per cent of those employees were living in families whose incomes fell below a stated so-called 'poverty line'.

Whatever the justification for the ACTU claim it is not primarily that of helping employees working in low income households.

This is reinforced when we remember that the increases sought by the ACTU are on award rates of

the lowest paid through to the highest paid. The ACTU proposes that the very highest award rates be increased by 5.7%.

BREAKING THE ENDLESS CYCLE

We are in fact locked in an endless cycle of escalating ACTU claims and unrealistic claims about what the economy can sustain. In the period 1993-1996 the ACTU sought to increase award each year by \$8, and these increases were granted. In the period 1997-2001 the ACTU claims have in total multiplied by five times, as the following tables show. In addition the amounts awarded have increased. This is neither responsible nor sustainable. We have to break out of this dangerous cycle. The economic risk we run is too high a price to pay.

As Table 1 shows, ACTU claims have accelerated in recent years. In the period 1993-1996, the ACTU only claimed increases in the award rate at base level of about 7.4%, while in the period 1997-2001 the ACTU claims have multiplied by five times, to 40 per cent. The increases in claims are even more in real terms, from a negative amount to about 30% in real terms.

Table 1 provides the claims that the ACTU had lodged during the last four years of their Accord arrangement with the Government. It shows that the average claim during the four year period was 1.8 per cent during a period in which the price level had risen by an average 2.7 per cent. The real level of increase actually claimed was therefore negative, diminishing by an average of 0.9 per cent over the four year period.

This may be contrasted with the claims during the period since 1996. As Table 2 shows, the average level of the claim was 7.2 per cent, which in real terms represented a sought increase of 6.3 per cent per annum.

Table 3 shows the actual amounts awarded during the final years of the Accord. In the four years shown the increases amounted to \$8 per year except in 1994 when the previous year's \$8 increase was broadened to over-award payments. It therefore represented an increase but not at base award level. The data show that across the four years, the amounts granted equaled the amounts claimed with the value of the amounts granted falling by an average of 0.9 per cent in real terms.

This may be contrasted with the amounts granted in the period since 1997. As Table 4 shows, the increases, although still below the amounts claimed by the ACTU, nevertheless represented real increases, growing by an average 2.4 per cent over the three year period.

Table 1 ACTU National Award Claims 1993-1996

CPI		ACTU Claims 1993-1996 \$		ACTU Claims 1993-1996 %	
Year	%	Existing C14	Increase Sought	Nominal	Real
1993	1.8	\$325.40	\$8	2.5	0.7
1994	1.9	\$333.40	\$0	0.0	-1.9
1995	4.6	\$333.40	\$8	2.4	-2.1
1996	2.6	\$341.40	\$8	2.3	-0.3
Total	11.4		\$24	7.4	-3.6
Average	2.7			1.8	-0.9

Table 2 ACTU National Award Claims 1997-2001

CPI		ACTU Claims 1997-2001 \$		ACTU Claims 1997-2001 %	
Year	% (Year to June)	Existing C14	Increase Sought	Nominal	Real
1997	0.3	\$349.40	8.75%	8.8	8.5
1998	0.7	\$359.40	\$20.60	5.7	5.0
1999	1.1	\$373.40	\$26.60	7.1	5.9
2000	3.2	\$385.40	\$24	6.2	2.9
2001	2.0 (5.8)*	\$400.40	\$28	7.0	4.9 (1.1)*
Total	2.7			40.0	20.0
Average	0.9			7.2	5.4 (4.6)*

Table 3 AIRC Safety Net Amounts Awarded 1993-1996

CPI		AIRC Decisions 1993-1996 \$		AIRC Decisions 1993-1996 %	
Year	%	Existing C14	Increase	Nominal	Real
1993	1.8	\$325.40	\$8	2.5	0.7
1994	1.9	\$333.40	\$0	0.0	-1.9
1995	4.6	\$333.40	\$8	2.4	-2.1
1996	2.6	\$341.40	\$8	2.3	-0.3
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Table 4 AIRC Safety Net Amounts Awarded 1997-2000

CPI		AIRC Decisions 1993-1996 \$		AIRC Decisions 1993-1996 %	
Year	%	Existing C14	Increase	Nominal	Real
1997	0.3	\$349.40	\$10	2.9	2.6
1998	0.9	\$359.40	\$10-14	3.9	3.0
1999	1.5	\$373.40	\$10-12	3.2	1.7
2000	3.2	\$385.40	\$15	3.9	0.7
Total	6.0			14.6	8.2
Average	1.5			3.5	2.0

THE NEEDS OF SMALL BUSINESS AND AWARD RELIANT EMPLOYERS

One of the most important initiatives in recent years has been the growing sophistication of economic data and analysis presented to the Commission to enable it to assess claims. One of the possible problems is that overall macro-economic data may at times obscure essential truths, such as that the effect of an increase in award wages is what happens to an individual firm in a particular cost and revenue environment. As the Commission has perhaps itself implicitly recognised in some decisions, there is perhaps a danger of too much concentration on mythical economy wide average firms and average alleged impact, in an economy which now is considerably less 'average' in its labour cost arrangements than it ever has been. There are now much greater differences in pay setting in different industries, size of business, and regions. Similarly the methodological differentiation between direct and indirect cost increases has had its traps, with for

example occasional attempts by unions to pretend that since it is by nature difficult to cost indirect or flow-on effects it is possible to simply overlook them.

The greatest impact is on award reliant sectors, particularly such sectors in regional areas. In some other areas such as some sections of manufacturing the experience of the safety net adjustment effect will be quite different, focusing more on the higher base for future bargaining and the expectation that the safety net adjustment will be simply a minimum to be gained for nothing in future negotiations.

CONCLUSION

We have major economic difficulties on our hands.

ACCI is not arguing for no increase to be made as a result of these current proceedings. The support of Governments of all political persuasions for an increase makes that an unrealistic option.

ACCI is attempting to play a constructive role by developed

approaches and options for the Industrial Relations Commission which do the least damage and provide the most assistance. ACCI will submit when proceedings commence that if an increase is granted it should be applied to the Federal Minimum Wage not the Award classification system as a whole. It makes no sense to go about increasing award rates for the highly paid.

In the alternative, if this proposal is not accepted, ACCI will submit that greater encouragement be given to enterprise bargaining, by providing the award parties with an additional breathing space within which to bargain for the increase, rather than the increase being simply money for nothing.

Finally, ACCI will argue that the increase must be based as closely as possible on anticipated productivity and other economic indicators, discounted having regard to distribution of productivity through other means such as enterprise agreements.

LABELLING OF GENETICALLY MODIFIED FOOD

The new standard for the labelling of genetically modified food due to come into effect in December 2001, is going to be a challenging one for the food industry and consumers alike.

From December, food manufacturers will be required to take all reasonable steps to determine from their suppliers whether their food or ingredients contain genetically modified organisms (GMOs), and to label packaged food appropriately.

Consumers will have access to more information about the food they eat, and be able to decide whether to consume a processed food that contains GMOs. The irony is, of course, that GMOs have been in processed foods, eg cheese, for many years already.

DECISION TO LABEL GENETICALLY MODIFIED FOODS

Health Ministers of all Australian and New Zealand governments agreed in July 2000 to label food containing genetically modified

organisms. Their decision to label packaged food produced by gene technology that contained novel DNA, novel protein or had altered characteristics, was based on the desire to address perceived health and safety issues.

The Health Ministers rejected a compromise plan put forward by the Commonwealth Government, with the result that Australia's and New Zealand's labelling standard is now one of the toughest in the world. It will add considerable costs to food manufacturers as they attempt to implement it, which will mean inevitably, that costs will be passed on to consumers.

Standard A18 in the new Food Standards Code gives effect to the Ministers' decision on labelling of genetically modified foods. It outlines the circumstances where food must be labelled and also the exemptions including: highly refined foods where the refining process is likely to have removed the novel DNA; processing aids or food additives, except where it remains in the final food; and flavours where their presence in the food is less than 1 gram per kg.

However, because food is produced with many ingredients, and by many different processes, implementing such a Standard will be difficult. While the Standard has tried to account for these complicated processes and also to reflect the Ministers' decision to provide certainty, the draft guidelines released late last year to implement the Standard are less than certain and emphatic in their language.

A key issue in the food labelling debate, and the one that is perhaps going to be the most problematic, is

where there is an accidental contamination or unintentional presence of an ingredient between batches. For example, in a situation where both genetically modified and non-genetically modified crops like soybeans are grown, it is possible that some mixing between crops will occur. Standard A18 does recognise this reality and has set a threshold of no more than 10 grams per kg per ingredient (1%) in the food before labelling would be required.

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COMPLIANCE GUIDELINES TO IMPLEMENT THE STANDARD

To implement the Standard, a draft compliance guideline has been developed. Food manufacturers

are required to exercise “due diligence” in complying with food standards and the draft compliance guideline sets out how that should be undertaken. The draft guideline suggests that the best way to undertake due diligence is through a paper or audit trail, that is, maintaining documentary evidence of the ingredient's provenance.

The basis of the draft compliance guideline is a decision tree, based around availability of “evidence” that foods or ingredients are not from a GM source or meet the criteria that means that they do not need to be labelled. Food manufacturers must take all

reasonable steps to ascertain the GM status of the food.

This presents a major difficulty with the Standard and draft guideline as food manufacturers will need to rely on their suppliers to provide evidence of the GM status of ingredients. This will be especially problematic if commercial GM varieties of the crop/ingredient are grown. Food manufacturers may be either forced to test for GMOs or label their product, “may contain genetically modified ingredients”.

Testing for genetically modified organisms to the 1% threshold identified by the Standard is not conclusive as overseas experience has demonstrated. In this context, the draft guideline offers only the advice of undertaking reasonable steps to determine its status. It is an imperfect system, and in the absence of documentary evidence, manufacturers will have to test. There are a limited number of testing facilities in Australia and in any case, if testing proves inconclusive then does that constitute taking all reasonable steps? Unfortunately, the Standard and draft guidelines do not address the ambiguity of what is “reasonable steps”. The draft guidelines should be redrafted to give manufacturers better clarification of what “reasonable steps” means in determining GM status.

Food manufacturers who use imported ingredients will need to establish with their overseas suppliers whether the ingredients/foods used come from genetically modified sources. As documentation and paper trails are suggested as the primary source of determining status, this is bound to

create significant compliance burdens on food manufacturers as they attempt to ascertain the origin of all their ingredients. The draft guideline states that at each step in the supply chain, the responsibility falls on successive suppliers to provide accurate information.

Whether small manufacturers will be able to demand this sort of information from their suppliers remains to be seen. Enforcing this requirement may also be a time consuming and costly exercise. Manufacturers may as a last resort, be forced to change suppliers if they are unable to have their requirements met, which could also cause significant upheaval in the industry.

ALIGNING COMPLIANCE AND ENFORCEMENT OF THE NEW STANDARD

As compliance with the new Standard and the Compliance Guideline will be a challenge, so will the appropriate enforcement of the Standard also be a challenge. There will need to be some consistency of understanding between stakeholders about the interpretation of terms. Language currently in the draft guideline such as “appropriate period”, “occasional testing” or “reasonable steps” could lead to a multiplicity of meanings, which can only cause confusion. Governments need to address the issue of ensuring that the interpretation of the compliance guideline and its enforcement are aligned so that there is a common understanding and workable Standard across all the States and Territories, and New Zealand.

The issue of the threshold for unintentional presence of GMOs will also cause some problems for enforcement as variable testing

methodologies may produce a range of figures, sometimes a little over, sometimes a little under. Once again, a food manufacturer may be forced to err on the side of caution, rather than run foul of the *Trade Practices Act* by inadvertently providing misleading information.

PUBLIC ATTITUDES TO GENETICALLY MODIFIED ORGANISMS

The decision to label genetically modified organisms in food was made by Ministers under circumstances where there was still

“THE UNCERTAINTY STILL WITHIN THE STANDARD AND THE DRAFT GUIDELINE NEEDS TO BE ADDRESSED AND WILL NEED TO BE FLEXIBLY INTERPRETED TO TAKE ACCOUNT OF THE VARIABILITY OF GMO SITUATIONS. THE STANDARD SHOULD ALSO BE REVIEWED REGULARLY TO REFLECT ANY FUTURE CHANGES IN COMMUNITY EXPECTATIONS, COMPLIANCE ISSUES OR FUTURE AVAILABILITY OF INFORMATION.”

mistrust about genetically modified food. Even since the decision was made, the public has had access to better information about what is occurring in the genetic modification process, and there does not seem to be the same level of public antagonism toward genetically modified food, although, environmental aspects and some aspects of reporting of field trials does fuel the public’s scepticism. In some senses though, the debate about GM food has matured and there appears to be a recognition of the fact that GM processes have been in wide use in food manufacture for more than a decade with no adverse public health effects.

It is another irony of this debate that the community easily accepts pharmaceuticals produced by genetically modified means, and wants the more effective use of herbicides and pesticides which can be a benefit of GM food production.

While the new labelling Standard is likely to mean significant compliance costs to industry and quite likely some disruption to supply procurement, it may over time improve due diligence procedures, as document trails become an integral part of the food supply chain. It will be important for all food manufactures to have proper document systems in place.

However above all, the uncertainty still within the Standard and the draft guideline needs to be addressed and will need to be flexibly interpreted to take account of the variability of GMO situations. The Standard should also be reviewed regularly to reflect any future changes in community expectations, compliance issues or future availability of information.

Industry has supported the need for a Standard to ensure that consumers are provided with relevant information. But equally so, there needs to be recognition of the challenges that will be faced by business in implementing the Standard. The Commonwealth, State and Territory governments and New Zealand should also take the opportunity to clarify the uncertainty and ambiguities of the Standard by ensuring that the Compliance Guideline is unambiguous and leads to a workable and certain GM labelling system.

DEMOCRATS' CORPORATE CODE OF CONDUCT BILL FUNDAMENTALLY FLAWED

Australian firms operating abroad, especially in developing countries, bring with them new investment, management and marketing skills, and new technologies which can benefit the host countries. Such benefits include faster and more broadly based economic growth, better education and skills training, new employment opportunities, and expanded export income. Unfortunately, a Bill currently before the Federal Parliament is likely to have a profound adverse impact on Australian firms looking to invest or operate in some developing countries.

The Corporate Code of Conduct (CCC) Bill proposed by the Australian Democrats reflects a desire to export Australian values and practices to the rest of the world, especially developing nations. That is, a 'one (Australian) size fits all' model is appropriate for all countries

According to the Australian Democrats' spokeswoman on foreign affairs, Senator Vicki Bourne:

"Australia has a responsibility to other countries to ensure that our companies adhere to the same standards they are subject to in Australia.

"The Australian Government must legislate to ensure Australian companies operate in a manner that is consistent with international human rights, environmental, occupational health and safety, and labour standards as well as Australian domestic law."

The underlying assumption Australian firms operating abroad practice lesser standards than those at home is a sweeping generalisation for which there is scant, if any, substantial evidence.

While supporters of the Bill cite a small number of cases where they perceive a problem, they are far from proving the claimed problems are other than isolated instances and can be "solved" by sweeping legislative intervention. Nor do they prove conclusively adherence to Australian law would have necessarily prevented or mitigated the claimed problem.

The intellectual origins of the Bill are also interesting. According to Senator Bourne, it reflects "months of consultations with a wide variety of non-government organisations, academics and unions." The absence of meaningful business input is evident in the many shortcomings in the Bill.

FUNDAMENTAL FLAWS

Beyond the absence of proven need for such legislation, the CCC Bill contains a number of serious flaws, both in principle and in practice.

Prominent amongst the flaws-in-principle is the erroneous presumption Australia has the best practice model and appropriate moral ascendancy in the areas covered by the Bill, such as labour standards, occupational health and safety, and the environment.

Successive Australian Governments have implemented laws and regulations in each of these areas, and in many others, which have suited our economic and social development. The values underpinning these laws and regulations have, like the laws and regulations themselves, not remained static, but have evolved with time.

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But while such values, laws and regulations may be appropriate for Australia, this does not mean they are automatically suitable for every other country in the world.

Other countries, especially developing nations, have the sovereign right to self-manage similar evolutions in their economic and social development, reflecting their own cultural, historical and social values, and their economic capacities and potential.

EXTRA-TERRITORIAL APPLICATION OF LAWS

A central feature of the CCC Bill is the requirement for Australian firms operating abroad to comply with Australian law. In effect, the extra-territorial application of Australian law into the sovereign domain of other countries.

Commerce and industry is strongly opposed as a matter of principle to the extra-territorial application of laws. Such laws are gross incursions of the national sovereignty of other countries, and patronising especially where they are applied by developed upon developing countries.

Enactment of the Bill is likely to adversely impact upon those its advocates purport to be seeking to assist, by discouraging Australian firms from engaging in trade and commerce with developing countries and so impairing their development capacities and potential.

Commerce and industry, from an operational perspective, is also concerned at compliance with laws having extra-territorial application. How does an overseas corporation deal with any conflicts of laws/legal obligations between the Australian and host country jurisdictions?

Is full and effective compliance with the laws of the host country an absolute defence against the extra-territorial application of laws, a problem compounded where there are multiple jurisdictions?

PRACTICAL FLAWS

The CCC Bill also contains a number of serious, practical shortcomings.

In Clause 6, which deals with interpretation matters, the Bill sets out a range of “basic needs”, ranging across areas such as food, clothing, education, housing and drinkable water.

However, interpretation of “basic needs” is potentially open-ended as to quality - is “basic” measured by developed or developing countries standards, or those appropriate to the host country?

Clearly, it would be an onerous demand upon Australian firms operating in developing countries

“FROM A CORPORATE GOVERNANCE STANDPOINT, A NUMBER OF THE PROVISIONS OF THIS CLAUSE APPEAR INCOMPATIBLE WITH THOSE OF AUSTRALIA'S PRINCIPAL LAWS IN THIS AREA, NAMELY THE CORPORATIONS LAW.”

to provide drinking water and housing to their employees at Australian standards – and a substantial deterrent to their investing in those countries.

The Bill, also in Clause 6, seeks to impose “minimum international labour standards” on Australian firms operating abroad. Such standards would be those contained in a range of International Labour Organisation conventions.

Commerce and industry regards this to be the wrong approach to ILO agreements. The Bill seeks to directly apply ILO Conventions that are often ambiguous, phrased very generally, and offer a variety of methods of implementation.

Australian legislation, federal and State, determines the appropriate conditions to apply to Australian

companies. When Australia ratifies an ILO Convention it does so when satisfied that Australian legislation is in conformity with the Conventions in question.

The Bill also seeks to prescribe the minimum employment conditions Australian firms operating abroad must implement, such as the use of compulsory or forced labour, and the payment of a so-called minimum “living wage”.

Commerce and industry regards these proposed obligations as unnecessary and potentially inconsistent with the detailed legislative obligations already placed on Australian businesses.

What, for example, constitutes a ‘living wage’, a concept over which there is much disagreement in this country. Given the general thrust of the Bill, it would suggest such minimum wages would be set at Australian levels, which would make many developing countries uncompetitive given their comparatively lower levels of labour productivity.

The authors of the Bill also lack a proper understanding of the Australian award system, which is termed a ‘safety net’ system which can be argued as different in nature to a so-called ‘living wage’ approach.

The Bill also contains a number of definitions on environmental matters, ranging across natural and physical resources, and the qualities and characteristics of locations, places and areas.

It also includes the contentious precautionary principle, which the Bill means “lack of full scientific certainty should not be used as a

reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage.”

The definitions of environmental concepts used in the Bill are so broad that is conceivable almost any action or conduct could impact upon the environment.

The better approach would see definitions limited strictly to ecosystems, and the physical resources they contain. The precautionary principle should be replaced by appropriate risk management strategies.

REPORTING AND ENFORCEMENT

The Bill seeks to set down a range of compliance and reporting obligations upon commerce and industry, centred on the lodgement with the Australian Securities and Investments Commission (ASIC) each year of a formal Code of Conduct Compliance Report.

The content of these Reports would include details on directors and executive remuneration, the distribution of shareholdings and on compliance with the Bill/law.

Of particular concern must be the unreasonable invasiveness of many

of the specific provisions into corporate confidentiality and individual privacy.

From a corporate governance standpoint, a number of the provisions of this Clause appear incompatible with those of Australia’s principal laws in this area, namely the Corporations Law.

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For example, the reporting time frame, with a deadline of 31 August of each year, is impractical (and unachievable) from a commercial operational perspective, and out-of-step with mainstream reporting processes.

The legal processes set down for enforcement of the Bill/law are generally fair and reasonable, and compatible with the broad due processes of law, with one significant exception – relating to the granting of standing to legal persons wishing to initiate a civil action in ‘the public interest’.

Commerce and industry rejects unequivocally any attempts to create standing for private legal persons, in whatever form, to

initiate legal action on the ground of “the public interest”.

Beyond the amorphous (and much debated) nature of the concept, commerce and industry foresees this platform being exploited by vested interests to advance political or social action agendas.

THE BETTER APPROACH

A recent study on the linkages between trade and development by the Organisation for Economic Co-operation and Development (OECD) found for the least developed countries to develop from the globalisation and liberalisation of world trade “requires the pursuit of a comprehensive development strategy that would seek to create the conditions for private sector-driven development.”

Such development can best be achieved by closer and deeper involvement by foreign firms, including those from Australia, in facilitating the development and growth of the local private sector, not by creating artificial, legislative disincentives to Australian firms operating abroad.

EMPLOYER INCENTIVE: THE “SIMPLE” MESSAGE

It is long recognised that Government Incentives have an important part to play in encouraging employers to participate in the training system. It is one of a number of factors which impact on employers agreeing to take on and continue to employ New Apprentices. However, over time, the incentive regime has only served to add to the level of complexity and added to the uncertainty and confusion amongst employers, industry and other stakeholders. A new simplified regime is proposed with a suggestion for a process to further increase the number of New Apprenticeships in Australia. In addition, innovative ways need to be introduced which encourage employers to train existing employees.

INCENTIVES MAKE A DIFFERENCE

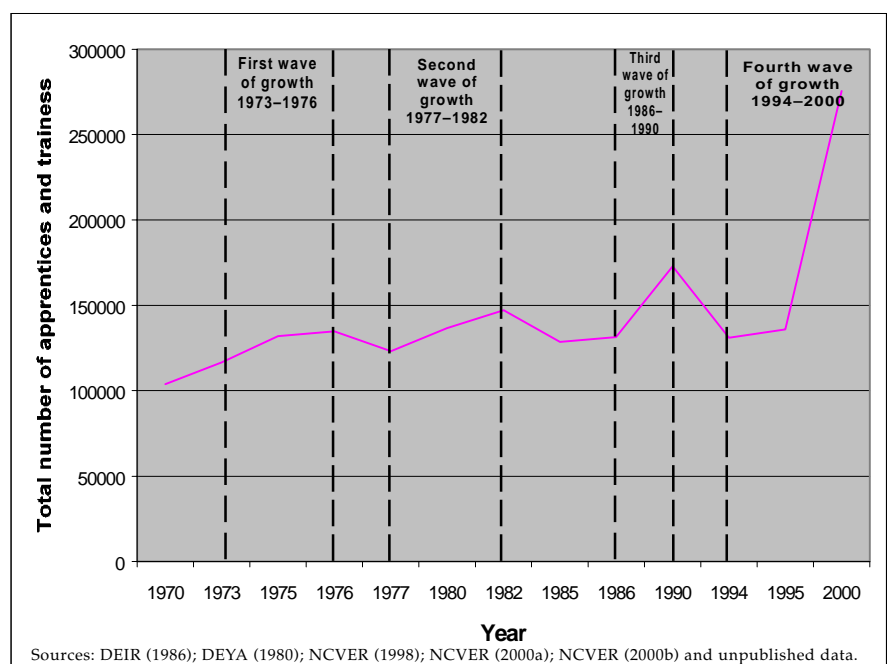
Through the modern era of apprenticeships, through the introduction of traineeships, to their integration into New Apprenticeships, incentives have clearly made a direct impact on numbers undertaking entry level training.

Figure 1 below outlines distinct growth periods which coincide with the introduction of national employer subsidies or an increase in the amount of funds provided to employers as incentives for employing trainees or apprentices. More detailed work on this issue has been undertaken by the National Centre for Vocational Education Research Ltd. During this period, additional subsidies offered by States and Territories have also grown.

COMPLEX ARRANGEMENTS A BARRIER TO EMPLOYERS

What is important to recognise is that incentive arrangements are introduced by governments to influence employer behaviour. Therefore, the introduction of an incentive regime should have the primary purpose of assisting governments in targeting resources along clear lines agreed with industry. Moreover, incentive

Figure 1: Periods of growth in apprenticeships and traineeships and new apprenticeships in the modern era, 1970–2000



arrangements should be simple and easily communicated to employers in order to influence their behaviour. This is not the case with each system at present.

Consistent and transparent incentive and subsidy arrangements are a key ingredient for the full, effective implementation of Australia’s Vocational Education and Training (VET) system and thereby, better outcomes for employers and employees.

It is also important to increase the harmony between the Commonwealth incentives and State and Territory subsidy and

other forms of assistance including payroll tax relief and reduction in Workers Compensation payments.

Some attempt has been made to shed light on the complexities through the latest work on National Consistency in VET undertaken by representatives of industry and governments, with information on subsidies and incentives available on the Commonwealth’s Department of Employment, Training and Youth Affairs’ (DETYA) website. There has been an effort made to standardise the terminology and format of incentives information so as to be more understandable to the “user”. However, commendable as this is,

it does not address the fundamental concerns about inconsistency and complexity within the entire scheme.

What is needed is a common denominator framework to suit all situations and jurisdictions, to which simplified add-ons can be made for higher level training, existing worker training and annual priorities set by Commonwealth and State/Territory agencies with the agreement of industry.

PROPOSAL TO STREAMLINE AND MAXIMISE

The principles underlying ACCI's proposed new scheme involve a streamlining of the payment framework, the minimising of administration and the maximising of benefits gained from publicly funded training incentives. It will also provide an opportunity for harmonisation between State/Territory and Commonwealth arrangements. It will provide messages on training priorities and will be easily marketed to employers.

In essence, the proposed incentive scheme is divided into two parts: the first is the framework for ongoing entry level training incentives and the second establishes a Learning Bonus.

ENTRY LEVEL TRAINING INCENTIVES

Ongoing incentives paid by the Commonwealth would be confined to:

- new entrants to the workforce who are undertaking a part or full-time New Apprenticeship at Australian Qualification Framework (AQF) 2 to AQF 4;

- payment rates would be dependent upon level of qualification attempted and achieved. The highest incentive payment would be for AQF 4s and the lowest for AQF 2s. It is recognised that the total payments for higher AQF levels would increase;
- payment installments would be made on a one half up-front and one half on completion basis. Progression payments would be abolished; and

"THE PRINCIPLES UNDERLYING ACCI'S PROPOSED NEW SCHEME INVOLVE A STREAMLINING OF THE PAYMENT FRAMEWORK, THE MINIMISING OF ADMINISTRATION AND THE MAXIMISING OF BENEFITS GAINED FROM PUBLICLY FUNDED TRAINING INCENTIVES. IT WILL ALSO PROVIDE AN OPPORTUNITY FOR HARMONISATION BETWEEN STATE/TERRITORY AND COMMONWEALTH ARRANGEMENTS. IT WILL PROVIDE MESSAGES ON TRAINING PRIORITIES AND WILL BE EASILY MARKETED TO EMPLOYERS."

- Group Training arrangements would be treated as any other employer and receive the same payment dependent upon AQF level of New Apprentice.

In recognition of shifts in policy and priorities, it is proposed that the Commonwealth and States and Territories have a level of flexibility in setting some incentives on an annual basis. Such additional incentives should be complementary to ongoing arrangements and should be able to be articulated with the core

framework. The additional incentives should be for priorities agreed between government and industry and be limited to target industries or occupations and apply only for a financial year.

LEARNING BONUS SCHEME

In 1997/98 the number of employers who received incentives for training was 147,392. The 1999/00 figure was 57,944. The reason for the dramatic decline was the removal of Commonwealth support for the training of existing workers. States and Territories were obliged to take up the short-fall of funding incentives for existing workers but in the end what was reflected was a lower level of commitment to skilling existing staff.

Nevertheless, the need for existing workers to participate in formal training leading to higher qualification is an acknowledged need of contemporary industry and mirrors the call for a life long learning culture to meet the individual, social and employment needs of Australians. It is imperative that all efforts are made to provide incentives for employers and individuals to develop their skills to compete effectively in the ever-changing and demanding world market.

Therefore, a Learning Bonus is proposed which provides an allocation to an employer for employees who complete a formal qualification at AQF 3 or above. The Bonus should not be limited to New Apprenticeships but rather a simple financial incentive for employers to encourage formal training amongst their workforce. The measurable outcome would be in the recognition of formal skills of the Australian workforce.

To ensure that there is an equal level of encouragement towards large and smaller enterprises, an annual limit of 350 Learning Bonus payments would apply to any single employer. To receive the Bonus payment, the employer would need to provide proof of qualification by the respective Registered Training Organisation to a New Apprenticeship Centre. The level of payment would be equivalent to the relevant commencement amount for entry level training.

The employer would have flexibility in how the incentive was used. It could, for instance, be passed on to an employee to reimburse costs of training or the employer may choose to use the payment to off-set costs of workplace skills assessment. Whilst there may be variations in the costs of training or in the amount of formal training required to complete a certain qualification, there would be no variation in the amount of the Learning Bonus payment. The integrity of the Bonus scheme would be protected by inclusion in relevant audit arrangements. Once instituted, an

evaluation of the impact of the bonus scheme, and its encouragement of formal training, should be conducted by the Commonwealth.

SIMPLE MEASURES, WIDE BENEFITS

The basic premise of the proposed incentive and subsidy arrangements is to provide maximum benefit to a wide range of employers from a simplified, transparent and consistent framework, with the outcome of increasing employer engagement in training opportunities and enhancing the qualification level of the Australian workforce.

The enormous variation of incentive payments and criteria between jurisdictions is a source of frustration for employers, particularly national companies operating across jurisdictions. For instance, in the area of payroll tax relief, exemptions can vary from 25% to 100% and eligibility for assistance can be related to the characteristics of either the employer or the employee. In some

jurisdictions, an automatic exemption will apply, whilst in others a formal claim must be made by the employer.

Incentives and subsidies related to New Apprenticeships are also subject to variation. For example, Commonwealth funded incentives are not available for New Apprentices with prior qualifications, but in some States these will attract some level of incentive. Assistance for travel and accommodation to support off-the-job training is also inconsistent between the States and Territories.

Most importantly, the proposed scheme would, by supporting entry level training, encourage employers to provide training opportunities to new members of their workforce, regardless of prior qualifications or experience. This, together with the Learning Bonus scheme, will encourage a shift of emphasis from informal training to formal training, providing every Australian employee with the opportunity to receive a skilled qualification and providing employers with a skilled workforce.

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