



Coping with a slowing economy ACCI's pre-budget submission for 2001

The economy has now entered a period of difficulty in which overall conditions are weakening. The central aim of policy now must be to restore the growth rate of more than four percent per year that we had come to expect over the past three years. Such restoration will neither be easy nor automatic. It will again require a return to the fundamentals that brought Australia its previously strong rate of growth. It will, in particular, require restraint in public spending, the maintenance of a budget surplus and the lowering of interest rates. It will require an easing of regulation on the private sector and a greater reliance on the market.

The Australian economy is now in the midst of a slowdown in activity. The slowdown has been largely due to decisions of the Reserve Bank of Australia to raise rates five times since November 1999 which has led to the slowing in the economy the rate increases were designed to effect.

Yet it was not interest rates alone which have caused the economy to falter. Of particular importance has been the rising cost of crude oil which has put a damper on activity around the world. The higher cost of transportation has taken a toll on activity not just in Australia but overseas as well. The consequence has been a slowdown in business across the globe with the slowdown in the United States the most prominent casualty.

In addition, the introduction of the GST caused a good deal of activity to be brought forward into the first half of 2000 and has led to some changes in the pattern of demand across the economy. However, the effects of tax reform on the economy were of lesser importance in comparison with the increases in rates whose consequences have been far more significant.

As a measure of contemporary conditions, ACCI has developed its Business Barometer™ which is built from the results of its three national surveys. The barometer provides an estimate of the strength and direction of current economic conditions that provide a more contemporary reading of the economy than do the National Accounts. The most recent data

I N S I D E

National Competition Policy holds out the potential to deliver substantial economic benefits to Australia. Realising the benefits of the national competition policy reform process will, however, best be achieved if some of the misconceptions about the process are dispelled, and some important related issues are addressed. [PAGE 6](#)

Tobacco Treaty. The Australian Government is to participate in negotiations under the World Health Organisation for a Framework Convention on Tobacco Control. The business community is greatly concerned at the international legal precedents proposed in a number of the provisions of the draft Framework Convention. [PAGE 8](#)

The Pollyannas of the ACTU. The union movement seems to believe its claim for award increase of between 5.7 and 7.0 percent are consistent with current economic conditions because recovery is on its way and certain to occur. It's a lovely world where the ACTU lives. It is only too bad no one else gets to live there with them. [PAGE 11](#)

from the barometer show that the economy has been slowing for the past five quarters and that economic conditions are now lower than they were during the depths of the Asian crisis in 1998.

What is particularly significant about these figures is that they date the commencement of the slowdown to the end of 1999 and the start of 2000. That is, they date the commencement of the current slowdown to the period in which interest rates began to rise.

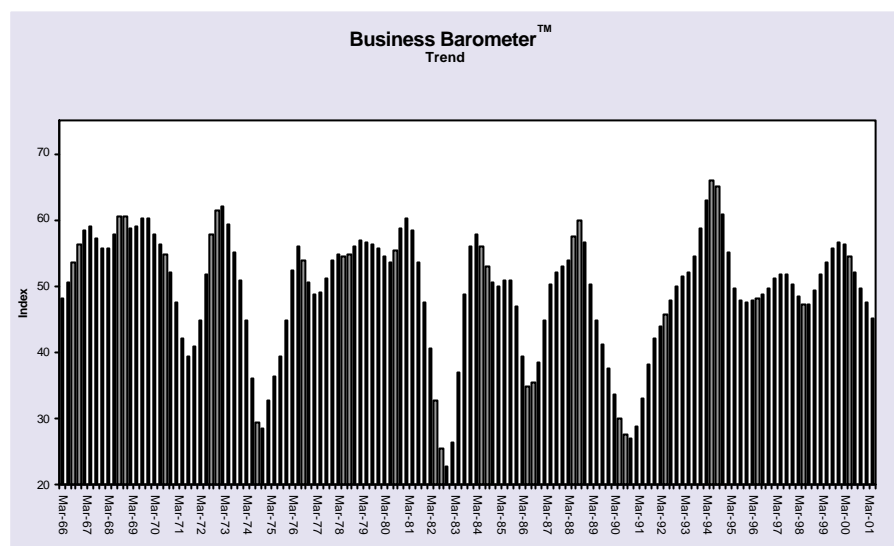
It is also useful to note from the fall in the barometer that the economy is not in deep recession. The level of the barometer provides an indication of the relative depths of the economy on this occasion in comparison with past economic downturns. There ought to be no question that the slowdown is relatively limited in comparison with the depths reached in 1982 or 1991, but that nevertheless the economy has slipped a long way from the strength it had only one year ago.

However, given the nature of the problems facing the Australian economy, it will be essential that policy is properly crafted to restore economic growth in the shortest possible time.

Continuation of Spending Restraint

Amongst the most important actions the Government can take is to ensure that not only is the budget surplus maintained, but there is only limited growth in the rate of public spending.

The actions taken to bring the budget back into surplus through



cuts to public spending have been the most significant factor in producing a period of extraordinary economic growth for Australia. It is imperative to Australia's continued economic success that the Government ensures that the surplus is not allowed to deteriorate through unproductive forms of government expenditure. Spending restraint will be crucial in promoting Australia's long-term prosperity.

Tax reductions, both personal and business, could however, contribute to an improvement in the underlying strength of the economy, but should only be introduced if they were consistent with maintaining a strong budget surplus. Reductions to business taxes that improved the level of business retained earnings would be the most effective means to create a rapid improvement in the level of economic activity

Further Reduction in Official Rates of Interest

The series of increases in interest rates, which were initiated by the RBA between November 1999 and August 2000 have resulted in a

slowing of the Australian economy. This tightening of monetary policy was conducted at a time when inflationary pressures were negligible. Business was concerned throughout this process that increasing interest rates in the absence of inflation could result in a considerable loss of jobs as well as an unnecessary slowing of the economy. These fears have now been borne out by the actual slowdown in the economy.

The Reserve Bank has now commenced its process of interest rate reductions. Official interest rates should be brought down to a level consistent with the restoration of strong rates of economic growth. The aim must be to return as quickly as possible to the strong economic position which we only so recently had.

Business Tax Reform

The introduction of the Board of Taxation has the potential to be a major step forward in the design of tax legislation. It should ensure that there is proper scrutiny of proposed changes to the tax system.

Additionally, the issuing of exposure draft legislation for

public comment is likely to ensure that tax changes contain fewer unintended consequences. The major proposal now being considered is the Tax Value Method for calculating business income. While business has accepted that in principle there is merit in this proposal, there are still many issues that need to be very carefully considered and a proper evaluation is crucial before this change is made. The removal of the July 1, 2001 implementation date has been important in ensuring that there is proper evaluation of this proposal.

ACCI welcomes the Treasurer's recent announcement of a series of changes to the reporting requirements for business. These changes will simplify and streamline GST payment and reporting arrangements for small businesses

Labour Market

Rejection of the ACTU's Safety Net Claim

The ACTU Safety Net claim, announced in November 2000, consists of a \$28 per week increase in Federal award rates of pay between the minimum full time adult rate and the Metal Industry Award Rate (C10), and a 5.7% increase in award rates above that level. The success of such an extravagant claim would have a severe negative effect on the Australian economy, lowering investment and raising unemployment.

Business would expect that given the state of the economy and the serious deterioration in growth and employment this year in

comparison with last year, that any increase granted must be lower than the \$15 granted in April 2000 when the economy was thriving.

ACCI and the Australian business community recognise that a modest rise, targeted at the low paid may be appropriate. Such a claim would only be effective if it were focused on the Federal Minimum Award Wage and encouraged employers and employees to enter into enterprise agreements.

Continuation of Industrial Relations Reforms

Industrial relations reform will become increasingly important during 2001 and should, accordingly, be given a high priority during budget preparation. There are a number of immediate issues which will require attention if Australia is to achieve an adequate labour relations system, characterised by decentralisation and voluntarism.

Welfare Reform

The aim of the Federal Government in developing an adequate welfare policy must be to ensure that the safety net does not become a permanent form of income support and to provide a system which will assist those employees who are reliant on welfare to re-enter the workforce as soon as possible. ACCI supports the Government's approach to welfare reform and recognises that early intervention is crucial so as to ensure that the transition from unemployment into paid employment is as smooth as possible.

Business recognises that it can assist those Australians who are in need and notes that many Australian businesses already do so. But this assistance must be voluntary and should in no way become an obligation or a reporting requirement.

Introduction of Climate Change Mechanisms

ACCI and the Australian business community considers as essential the introduction of market based mechanisms to achieve a global policy outcome designed to achieve a worldwide reduction in greenhouse gas emissions.

However, abatement should be recognised as a global issue and action should not be taken which would inflict harm on the Australian economy without reducing global emissions.

Regional Development

Regional development requires coordinated action so as to address the challenges of change and restructure faced by regional communities to allow them to become competitive. The Federal government must address the needs of regional Australia in a comprehensive, clearly articulated statement of policy principles and strategies which will allow regional development.

National Competition

Prices Surveillance

The issue of prices surveillance is extremely important for business as it has the potential to directly impact on the prices that business charge. The recent Productivity

Commission review of the Prices Surveillance Act was initiated under a Commonwealth, State and Territory agreement to implement the National Competition Policy. To encourage an increase in the importance of the Price Surveillance Act beyond its current position would deter business investment and adversely influence Australia's economic performance.

Access

There is an important role for a *National Access Regime* in promoting competition between infrastructure providers. It is, however, important to ensure that such access does not discourage an owner from future investment in infrastructure projects which are critical to economic growth. Moreover, access should only be granted if it is likely to encourage competition in a market that has been traditionally characterised by monopolistic conditions or market power.

Industry Policy

The Promotion of Innovation

Innovation should be encouraged. It is the responsibility of the government to promote innovation through increased business investment in R&D to ensure that Australia maintains its ability to compete on a global level.

Business welcomes the Government's Innovation Action Plan which addresses some of the key impediments to Australia embracing an innovation culture. But more needs to be done particularly in developing Australia's skills base, and

encouraging greater private sector investment in R&D.

The Tariff Concession Scheme for Business Inputs

Changes made to the tariff concession scheme in 1996, which imposed tariffs where they had not previously applied, disadvantages those Australian businesses who use imported inputs. The fact that the budget is now in surplus and has been for some time should mean that the removal of such tariffs should become a high priority.

Reconsideration of Cost Recovery Mechanisms for Public Services

Cost recovery initiatives affect the competitiveness of business in such a way as to impede the introduction of new technology, reduce investment and have major costs for industry. An example is the notification of phototronics chemicals under the National Industrial Chemicals Notification Assessment Scheme (NICNAS). The phototronics industry involves the production of computer chips, silicon wafers and solar cells and depends on new chemistry to underpin development. NICNAS hinders the ability of Australian firms supplying this industry to keep up with developments:

- with the short shelf life of chemicals as a result of the pace of development in the industry, existing chemicals are superseded possibly even before an assessment has been completed.
- the market for photoresist chemicals is small but necessary for larger value

added industries. The size of the market makes it even difficult to justify applying for a low volume chemical permit as products may be consumed at 1 litre per month making it not cost effective.

- as a result of the above many of the small market niche products rely on old chemistry leading to internationally uncompetitive products.

Full and Easy Access for Government Procurement

The volume of public funds associated with government procurement is extremely large and as such it represents a major market for Australian business. When developing procurement guidelines, the Government must ensure that business are provided with full and easy access to the market.

Privacy Education Required

Legislation introduced in December 2000, which will take effect in 2002 and which will cover the use of personal information by the private sector, will demand preparation by the business community during 2001 in order to facilitate compliance. The Government should adopt a cooperative education and awareness campaign to ensure that industry is likely to meet its privacy obligations.

Skills Development

There is significant work to be undertaken by industry and governments in order to address impediments to national consistency in the training system.

The Commonwealth must continue to play a central role in ensuring an increase in the number of Australians holding nationally recognised qualifications and the overall increase in the skilling of the Australian workforce as well as additional funding for states and territories so that they may implement agreed reforms to the current system.

Support for The World Trade Organisation

The WTO remains the superior vehicle for effectively advancing and implementing bold comprehensive and sustainable multilateral trade and investment liberalisation. Business seeks further negotiations on agriculture, manufactures, services, government procurement and

investment, with exploratory discussions on competition policy and electronic commerce. However, business does not support the direct linkage under the WTO of trade and environment and trade and labour standards.

Summing Up

The Australian economy which had been travelling extremely well has now turned down. The notion that this downturn is likely to be transient will turn out to be far from that if there is no recognition that actions must be taken to consolidate. The downturn will only be of limited duration if the existence of problems is recognised and the actions needed to rectify these problems are taken.

At the top of the list of what must be done are that the budget surplus must be maintained, growth in public spending must be limited and interest rates must be brought down.

This will be a year in which sound economic policies will make a major difference to the long-term future of the Australian economy. The increases in rates which occurred from the end of 1999 through until August 2000 have had a large and highly damaging impact on the economy. The result is that the painstaking work of regenerating growth must commence again. ACCI's budget submission provides an outline of the actions that are necessary to begin that climb once again.

Action Agendas

Action Agendas are the centrepiece of the Government's industry policy. Announced by the Federal Government in *Investing for Growth* in December 1997, Action Agendas were designed to build partnerships between industry and government by identifying impediments to growth and giving industries direction for future growth.

For an Action Agenda to be developed the industry must be cohesive enough to drive the Action Agenda, be facing impediments to growth and be able to identify growth opportunities. There are currently 24 Action Agendas either completed or announced across a range of industries as diverse as the automotive to spatial information.

As Action Agendas form the most important element of the Government's industry policy, monitoring the impact that the Action Agendas have on the growth of industry sectors is a vital element of the policy development process as is progress on the removal of impediments to growth.

In general, business has been supportive of the process to identify and understand the impediments a sector is facing. The process provides the opportunity to gain an overall picture of the state of an industry or sector; identify a firm's role in the industry sector; gain a more thorough understanding of what impediments the industry sector is facing; develop a vision for the industry; and understand what changes are necessary to overcome the identified impediments.

ACCI is concerned to ensure that appropriate resources are allocated within Government to ensure that impediments to growth can be removed. We are concerned that in some cases, while the process has been highly valued by industry, the next stage of removing the impediments has either failed or been slow to show results. In the budget context we urge the Government to resource the removal of these impediments with sufficient funds to get the job done.

National cOMPETITION pOLICY

National competition policy holds out the potential to deliver substantial economic benefits to Australia. However, it is not without its challenges. Meeting these challenges, and realising the benefits of the national competition policy reform process, will best be achieved if some of the misconceptions about the process are dispelled, and some important related issues are addressed.

Prominent misconceptions - or misrepresentations - in regard to national competition policy include the supposed dismissive approach of national competition policy to 'public benefit/interest' matters, while important related issues such as using the competition dividend payments to fund constructive structural adjustment assistance must be actioned.

An unfortunate misconception which has been allowed to develop (or been promoted) about national competition policy concerns its treatment of 'public benefit/interest' issues. The content and tone of some commentaries would suggest national competition policy totally disregards public benefit/interest considerations.

An objective reading of the National Competition Principles, adopted by all Federal, State and Territory Governments of both major political persuasions in April 1995, belies this misconception.

In short, there is a clear and present place for public benefit/interest in the national competition policy framework.

Evaluating Public Benefit

The National Competition Principles, at Clause 3, set down the considerations which should be taken into account in evaluating public benefit/interest. In the order

listed: government policies on ecologically sustainable development; and, social welfare and equity considerations.

Clause 3 also identifies, in list order: occupational health and safety; industrial relations; economic and regional development; the interests of consumers; the competitiveness of Australian business; and the efficient allocation of resources.

Taken as a whole, the considerations which need to be taken into account when determining 'public benefit/interest' are unremarkable, and consistent with the general public policy framework which successive governments have operated under for decades.

However, and this may explain some of the misunderstanding about 'public benefit/interest' within the national competition framework, the Principles do not attach a pre-determined weighting to each factor to have universal application in all cases.

In essence, the weightings to be attached to the different considerations will vary with the nature of the issue at hand, and indeed over time. Different weights would also likely be attached to the considerations by different governments, as well as across the economic and political cycle.

In short, there is no 'one size fits all', static model for assessing 'public benefit/interest', nor is there a single mathematical equation which produces an unequivocal, numerical answer at the end of the calculation process.

Commerce and industry recognise restraints on competition can in some circumstances lead to net public benefit, although these first must be subject to examination in open, transparent, rigorous, public inquiry processes.

However, in determining 'public benefit/interest', business regards the primary considerations as international competitiveness, and economic efficiency and growth.

But, we also note other considerations identified in the Competition Principles Agreement include sustainable development, social welfare and equity, industrial relations, regional development, and the interests of consumers.

Competition Dividend Payments

A second important element of the national competition policy framework, about which there is fairly low levels of public awareness is the existence and treatment of what have generally been referred to as the 'competition dividend payments'.

As the nomenclature suggests, they are payments from the Federal to the State/Territory Governments reflecting the economic dividends resulting from the effective implementation of national competition policy.

The dividend payments are measured against the achievements of the individual State/Territory Governments in delivering competition reforms, working on the simple premise without such reforms there can be no dividends to distribute.

According to estimates by the Federal Treasury, some \$A648 million was remitted by the Federal Government to the State/Territory Governments in the 1999/2000 financial year as competition dividend payments.

On current fiscal projections, and assuming full compliance by the State and Territory Governments, annual payments are likely to rise from \$A715 million in 2001/02 to \$A795 million in 2005/06.

The States and Territory Governments have given undertakings to produce meaningful outcomes for such considerable payments of public monies, and the Federal Government (and, by association, taxpayers) have a not unreasonable expectation of the same.

To date, such payments have generally reflected high levels of achievement and compliance by the State and Territory Governments in delivering the national competition policy reform agenda. Where there have been areas of under-performance, remedial action has been taken, or those concerned have 'agreed to

disagree' with payments discounted accordingly.

To be clear, the State and Territory Governments are not without discretion in implementing national competition policy. But when, where, and the degree to which they fall short of their commitments under national competition policy framework, will mean that dividend payments will be adjusted accordingly.

Substantial Competition Dividend Payment

A related issue to the quantum of the payments is the use made by the State and Territory Governments of the substantial competition dividend payments.

Taking a narrow view, the competition dividend transfers are defined in the Competition Principles Agreement and in public financial terms as being 'general purpose payments'.

That is, they are given by the Federal Government and received by the State and Territory Government to be used for general purposes at the latter's discretion. This is in contrast to tied payments, which can only be used for the defined purpose.

It appears the State and Territory Governments have taken the competition dividend funds quite literally as general purpose payments, with any onward expenditure of these monies being at the discretion of the Government concerned.

Further, it appears the competition dividend payments have not been used for what commerce and industry, and others, would have reasonably expected – that is, to

facilitate structural adjustment for impacted communities and sectors.

Structural adjustment assistance could constructively include targeted funding for education and training, provision (or replacement) of key economic infrastructure, and identification of new economic platforms for impacted communities.

Such assistance should be used to underpin new directions and sustained economic futures for these communities, not to create an ongoing welfare dependency amongst recipients. In simple terms, it should not result in a 'hand-out' mentality, but create the capacity for communities to improve their competitiveness and productiveness

Unfortunately, there is little available information on how the competition dividend payments have been used by the State and Territory Governments.

Productivity Commission Reference

The Federal Government could usefully send a joint reference on these issues to the Productivity Commission, which has strong capacities in examining structural change issues, and the Commonwealth Grants Commission, whose expertise is Federal/State financial relations.

This reference could examine the usage to which the competition dividend payments have been put by the State and Territory Governments, focusing in particular on how, if at all, these funds have been used for structural adjustment assistance (and then how effectively and efficiently).

At the same time, when determining the allocation of such structural adjustment assistance it will be important to clearly distinguish those impacts which can be properly attributed to national competition policy, and those which cannot.

While it is a reasonable expectation of impacted communities to share in the competition dividend payments where they may have been adversely affected, it is not so where the underlying cause of their discomfort arises from other factors.

For example, there have been a great many media reports of regional and rural communities seeing the departure of valued education, medical and financial services.

However, it is a quantum leap in reasoning to attribute such events solely or predominantly to national

competition policy without taking other considerations into account.

These include other government policies (such as deregulation of the financial sector, which commenced almost 20 years ago, and meaningful trade liberalisation, which has been underway since the late 1980s), and market forces (such as the long term trend decline in commodity prices, and bold and fast paced developments in communications technologies).

They also reflect changes in social attitudes and practices, such as the strong internal migration which has seen sustained net movements of Australians, especially older Australians, from inland to coastal areas.

Indeed, a Productivity Commission report released in 1999 on the impact of competition policy on regional and rural Australia concluded the negative

effect of competition policy on those areas had been overstated.

After apportioning Australia into 57 separate regions, the Productivity Commission found all would benefit from national competition policy reforms in terms of average income per person employed.

While most of the regions were likely to be able to absorb any job losses resulting from national competition policy within a short to medium term time frame, a not insubstantial nine regions could expect greater challenges in creating new jobs.

It is in those regions where the structural adjustment assistance may well be most needed and can be best justified, and where the State and Territory Governments should apply the substantial national competition dividend payments.

TOBACCO TREATY

The Australian Government is to participate in negotiations under the World Health Organisation (WHO) for a Framework Convention on Tobacco Control. Beyond the ongoing debate over the health consequences of tobacco use, the business community is greatly concerned at the international legal precedents proposed in a number of the provisions of the draft Framework Convention.

Of greatest concern is the automatic legal liability of producers and the empowerment of so-called 'civil society' in treaty implementation, and the seemingly open-ended opportunities for delegated authorities to make changes to the text of any final treaty.

At the same time, the credibility of the draft Convention is not helped by some of the emotive language used in the working text. Terms like 'devastating', and 'addictive and lethal', while no doubt heart-felt by

the advocates of the Convention, are not helpful in persuading observers of the treaty's rational treatment of the underlying issues.

Key Concerns

Of greatest concern is the automatic assumption of guilt imposed upon those involved in the tobacco industry, which we simply cannot accept as a matter-of-principle. According to Clause D6:

'The tobacco industry should be held responsible for the

harm its products cause to public health and the environment, with each Party determining the scope of such responsibility within its jurisdiction.' ('Party' in this context means national government party to the Convention.)

The existence, nature and extent of any liability should be determined solely through due legal process, taking into account robust medical-scientific evidence of relevant legal jurisdictions.

Further, where the tobacco industry operates within a framework of laws and regulations set down by governments (and, by implication, approval of the regulated activity by the government), this would suggest there should be shared liability for any failure to meet such responsibilities.

Another key concern is the privileged status to be granted to so-called 'civil society' under the Convention: 'The participation of all elements of civil society is essential in achieving the objective of this Convention.' (Clause D7). No such standing is afforded to others more directly involved in the tobacco industry.

Commerce and industry objects to the use of the term 'civil society', as it confers upon some elements of society a moral legitimacy to which they are not necessarily entitled.

We would also challenge the standing of some of these self-appointed representatives of community interests, seriously questioning whom they purport to represent, the robustness of their foundations and their sustained commitment to the issues at hand.

Taken as a whole, and reflecting the treaty-nature of the Convention and the direct responsibility of participating governments to meet any commitments, this Clause and others like it (such as Clause E2), should be deleted. Any role for the broader community in meeting any obligations made under the Convention should be at the sole discretion of individual governments.

A noticeable weakness in the draft Convention is the seemingly

contradictory treatment of price and tax measures in reducing tobacco consumption.

On the one hand, the Convention, at Clause D2, describes tobacco consumption as 'addictive' yet elsewhere, at Clause F 1, it states 'price measures are an effective mechanism to reduce tobacco consumption ...'

Such propositions are logically inconsistent, given addictive products are likely to be unresponsive to price/tax measures (other than those of an extreme nature) and therefore unlikely to be effective in delivering other than marginal reductions in tobacco consumption.

Commerce and industry regards price/tax measures imposed on tobacco consumers as primarily revenue-raising measures, with any net public policy impact being determined by the uses to which such monies are put.

Shortcomings

An important omission from the draft treaty is the definition of key concepts, the nature and extent of which very much determine the breadth and depth of the Convention.

While it is becoming increasingly common in international treaty-making to leave determination of core concepts and definitions until the final stages of the negotiation process, such an approach is wholly inappropriate.

For example, provisions which call for the community to be 'fully informed' about the effects of tobacco consumption, and 'adequately protected' from

exposure to tobacco smoke are deficient until such key concepts are clearly defined.

The better approach would see core concepts and definitions negotiated at the earliest, rather than the latest, stages of the negotiations. This would better inform and set the parameters for the treaty-negotiators, instead of having such key elements almost determined by implication, and with different understanding of the key players during the negotiation processes.

Another important gap relates to the critical issue of compensation and liability - that is, inter alia, what are the nature and extent of the legal liabilities to be attached to tobacco producers/suppliers, and of compensation (and for whom)?

While the current working draft text states a panel of legal experts has been formed to make recommendations to the negotiating parties on compensation and liability matters, such proposals must be brought to the negotiating table at the earliest opportunity.

Business will be particularly concerned to see the existence, nature and extent of liability, and the allocation of responsibility for compensation between government and industry (given the tobacco industry operates under restrictive regulatory framework).

The draft Convention also sets down an inappropriate approach to the treatment of the intellectual property right of tobacco producers/suppliers.

The Convention, at Clause G1 (c), would require participating

governments to legislate 'measures for tobacco-product disclosures by all manufacturers, including all ingredients and additives, and major constituents of tobacco smoke, and promotion of availability of such information to the public.'

Such disclosure requirements are likely to be incompatible with the basic tenets of intellectual property protection rules. Insofar as text is needed on this matter, then it could productively be amended to read 'of such information to the public, providing such measures do not impair or impede the country's obligations under international intellectual property instruments.'

A significant structural defect in the draft Convention involves the inclusion of what amount to expansive 'escape clauses', making adherence to any agreement more or less optional for the signatories.

The General Obligations provisions of the draft treaty, at Clause E 2, state: 'each Party shall, to the extent possible within the means at its disposal and its capabilities.' Similar text can also be found elsewhere in the Convention.

Business regards such text as compromising the integrity and robustness of any Convention finally agreed, by permitting selective and optional adherence against self-assessed capacities.

In short, if any government who has acceded to the Convention

wishes to qualify its obligations it can claim incapacity, seemingly without prejudice or penalty.

Where the Parties wish to give special consideration to the capacities of developing countries, for example, to meet their obligations, these should be set down in substance and with clear time-limits, in a dedicated part of the Convention.

Another structural defect concerns the establishment and ongoing functions of a Conference of the Parties, a mechanism which is becoming an increasingly common feature of international treaties. The Convention proposes such a Conference of the Parties should be formed to keep under regular review the implementation of this treaty and its protocols.

However, and much more controversially, it also contains text which would empower such a Conference to 'adopt protocols, annexes and amendments to the convention, its protocols and annexes.' That is, in effect, write new text.

Commerce and industry is opposed to the creation of a Conference of the Parties which has the potential to in anyway alter the text of the Convention. Any such Conference should not be a *de facto* instrument-making mechanism or engage in treaty-making by stealth.

Rather, any amendments to the Convention should be the sole prerogative of participating national governments properly convened in formal session as the formal Intergovernmental Negotiating Body.

Redeeming Elements

These criticisms do not necessarily mean business regards the draft text of the Convention as wholly inadequate. There are some elements which are constructive, although some improvements in wording could be useful.

For example, at Clause D5, the Convention proposes tobacco control measures 'should not constitute a means of arbitrary or unjustifiable discrimination in international trade'.

While the underlying sense of this provision is sound, the better approach would see the wording changed to say that such measures 'shall be in full conformity with the principles and rules of the World Trade Organisation.'

Similarly, provisions which permit participating governments 'to regulate and to prohibit the export of tobacco products that do not conform to the exporting country's own domestic standards' (Clause E3) should be amended to ensure such arrangements do not impair or impede their WTO obligations.

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It must be a lovely thing to live in the always sunshine world of the ACTU. Never clouds. No darkness and no gloom. Everything always bright noonday sun. There are never storms to disturb the ever upwards spiral of our perennial good times.

In its submissions in the latest Safety Net Case, the union movement, chasing after its incredible desire for award increases of at least 5.7 percent and as much as 7.0 percent on the minimum wage, accused employers of being Hanrahans, always filled with worries of "we'll all be rooned". So here we are in the midst of an actual downturn in the economy, during a period in which employment has actually been falling, and it is employers who are supposedly failing to recognise reality by talking down an economy that is, despite all appearances actually thriving.

What makes it all the more absurd is the idea that this economy could at any time bear the weight of award increases of 5.7 percent and more. The plain fact is that if the ACTU claim were ever to be granted, no matter what the circumstances it would drop the economy through the floor. Is there anyone outside the confines of the union movement who could be in any doubt about what the outcome would be?

Indeed, the Industrial Relations Commission itself has made it unmistakable that it also believes the Safety Net claims made by the ACTU are excessively excessive by refusing to go anywhere near granting the amounts the ACTU has sought in each case since 1996.

Yet as unrealistic as all of its claims tend to be, there is a Pollyanna-like

quality to the ACTU submission on this occasion that will take some beating. Just look at the list of problems that the economy must now deal with and which were put on the record during the Safety Net hearing:

- GDP growth in seasonally adjusted terms has contracted during the December quarter by 0.6% and in trend terms has risen an insignificant +0.1%. Non farm product has matched the recent movements in GDP and in trend terms rose during the December quarter by that very same 0.1%
- private consumption growth is now half of what it was a year ago having fallen to 0.5% in the December quarter down from the 1.0% we had as recently as March 2000
- private sector investment has fallen for three consecutive quarters and at ever increasing rates so that as at December the fall in private sector investment, in that quarter alone, was 5.4%. Across the year to December the level of private sector investment has declined by 7.2%
- business investment, which leaves out investment in dwellings, has contracted during the December quarter by 1.1% and over the year to December has risen by an insignificant 0.3%

- employment growth has come to an end and the unemployment has begun to rise. It is part-time employment alone which is holding up while full-time employment has continued to contract
- productivity has been negative for the past 3 quarters and in the December quarter fell by 1.0%. Across the last year the level of labour market productivity has fallen by 1.5%.

Add to that the volatility in the dollar and we are looking at an extraordinarily poor time to be raising award wages across the board by any amount, never mind by the amounts the union movement is seeking. Yet in the midst of all of this, the ACTU believes that we can afford to raise the minimum wage at a rate that is more than double the current rate of increase of wages in general.

A Submission Off with the Fairies

When you come right down to it, does the actual state of the economy make any difference to the union movement? Does it actually care that granting its claim might well cost tens of thousands of people their jobs? Does it even consider that a gargantuan claim of the size it has specified might actually do real

harm to those it purports to represent?

The clearest evidence is that it does not give a hoot about the potential harm its claims may cause. It believes, in the self-contained world of the fantasy economics that it has invented, that the downturn in activity, the absence of investment, the fall in productivity, the rise in unemployment, the descent in the value of the dollar, that all of this does not matter and that the increases it wants should be given to it.

And the reason it believes that the money should be paid come what may is that the economy is about to rebound straight into a return to rapid growth. The slowdown is just history it says, we must look only to the future. There is thus a vacancy at the dead heart of the ACTU submission in which its own appetites trump every other consideration. As it says in its submission:

"The core of the argument put against us is that the economy is weak and havoc will be created by our claim. We will all be ruined, they say. That position is not borne out by the evidence."

These Pollyannas of the ACTU will have their money because Australia can afford it. Yet the evidence is that the cost of labour has now become the burden that business had said it would. It was part of ACCI's submissions during past Safety Net cases that the increases actually granted (amounts well below those sought by the unions, but large enough to make a difference to the cost of labour, especially amongst those at the lowest income levels) would come back to haunt those who had received them.

This has now been borne out. This has been graphically shown by ACCI's *April Survey of Investor Confidence* in which labour costs have now moved to rank as the

second and third most important constraints on investment.

The greatest constraint remains Business Taxes and Government Charges, the perennial first place finisher. But second is now Non-Wage Labour Costs and third is Wage Costs. That the cost of labour has now become as important as it has will be a major consideration in one business after another in determining whether many of those with jobs are able to keep them.

Into the midst of these difficulties the ACTU wants to add the problems that would inevitably come from increasing award wages by between 5.7 and 7.0 percent because it sees the economy going so well and such amounts can be easily afforded.

No grey skies to the ACTU, just bright sunshine. It's a lovely world where the ACTU lives. It is only too bad that no one else gets to live there with them.

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