



ACTU OHS CONFERENCE

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**What do Employers want for OHS
and Workers' Compensation?**

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CONTENTS

INTRODUCTION	4
PETER ANDERSON APOLOGY	4
OVERVIEW	4
ACCI'S ROLE IN THE ASCC	4
SOME ACCI OBJECTIVES	4
GENUINE OHS TRAINING TO BE ALLOWED AS A BARGAINING MATTER IN AGREEMENTS	5
DANGER OF EMPLOYERS CUTTING BACK ON OHS INVESTMENT AS THE ECONOMY TIGHTENS	6
OHS AND SMALL BUSINESS	6
SUPPORT FOR OHS HARMONISATION	6
MORE WORK NEEDED ON WORKERS' COMPENSATION	6
CONCLUSION	7
ACCI MEMBERS	8

INTRODUCTION

Good Afternoon and thank you, and Geoff Fary in particular, for the kind invitation to have ACCI address your OHS conference.

PETER ANDERSON APOLOGY

Unfortunately our newly appointed chief executive Peter Anderson is unable to speak to you today as he is attending the International Labour Organisation overseas. Peter spoke at the ACTU OHS conference a few years ago and found it to be very rewarding and would have rearranged his diary if he was in Australia.

OVERVIEW

ACCI's representation of industry on OHS issues is longstanding, and regarded as an important policy priority in our work on behalf of employers. So far as is possible we are keen to show leadership by adopting a co-operative and non adversarial approach to workplace safety. There are common interests that exist between employers and employees on OHS in workplaces. We try to have those recognised right through the supply chain. ACCI supports and actively works with governments and unions in bilateral and tripartite forums to foster these common objectives for safer Australian workplaces, and that is why we are the signatory with the ACTU and all nine Australian governments to the 10 year national OHS strategy, which we are now more than half way through.

One of our tasks is to elevate thinking about OHS throughout the community. There is a powerful business case for safer workplaces and work practices, but this is more than just about money and economics. Both the human and economic costs and consequences of fatalities, injury and disease in the workplace, like the costs of road trauma, are profound. As we all know, good safety records benefit business, their staff and the communities in which they employ.

They can be undone unless commitment by all parties to safer workplaces is ongoing. An inherent part of managing a business and employing in our economy is that OHS issues must be addressed on a continuing basis. Even though a lot has been done since the 1980's, new businesses and new employees are always coming into our economy, and even existing businesses are only as good as the systems and culture they have today.

Many employers, especially small and medium businesses, who want to make their workplaces safer need the support and assistance of professionals, industry bodies and governments. They alone do not have the resources, expertise, or assistance to make this happen. These employers, especially small and medium businesses, find OHS laws and regulations to be complex, bureaucratic, difficult to understand and sometimes impossible to implement effectively.

ACCI'S ROLE IN THE ASCC

As Australia's peak employer body, ACCI co-ordinates employer representation on the Australian Safety and Compensation Council. We strongly believe that governments should not make important decisions about OHS policy and frameworks without reference to the social partners, that is, employer organisations and trade unions as representative of employers and workers directly affected by those decisions. It is appropriate to mention your former ACTU Assistant Secretary Richard Marles, who also sat on the ASCC until the middle of last year. On behalf on industry we wish to publicly acknowledge Richard's contribution to the ASCC, a person we had a mutually respectful relationship with. Richard made a strong contribution to the ASCC and also worked in a collaborative manner with ACCI. It is fundamentally important that the new national structure beyond the ASCC operates on a tripartite basis, as national OHS policy should, wherever possible, be formulated on consensual principles.

SOME ACCI OBJECTIVES

ACCI has an overarching vision for safer workplaces – OHS policies and systems that support employers, employees and all those in the supply chain to develop cultures and attitudes, and accept responsibilities, that achieve safer places of work and safer methods of working so that Australian workplaces are free from death, injury and disease.

I have already mentioned that there is a powerful business case for safer workplaces and, over time, achieving a significant and sustained reduction in workplace fatalities, injury and disease. Achieving a significant and sustained reduction requires data and measurement. Although he might not mention his role if he were here, one of the first decisions Peter Anderson made when he became a member of the National OHS Commission in 2002 (the predecessor to the ASCC), was to join with your then ACTU representative Bill Mansfield and support the adoption of target reductions in workplace injuries and fatalities in the National OHS Strategy. This had the effect of breaking an impasse in the adoption of the Strategy, with the result that we now have targets against which we are gathering data and assessing national performance.

We are encouraging industry to view OHS management in the same business context as production, efficiency and cost control. Directors and senior executives need to lead by example and ensure that the size of their business and layers of decision making do not diminish accountability or the capacity of staff to provide leadership on workplace safety. As much as they struggle with over regulation, small and medium sized employers are well placed to use the close personal relationships developed in their businesses between owners, managers and employees for regular and two way communication on risk and hazard identification.

At the same time, small and medium sized employers should ensure that the informality of their workplace relations is not a substitute for specific attention to workplace safety issues.

We do not advocate deregulation of OHS, but our experience tells us that the quality of regulation needs to be made more effective and responsive. It also tells us that notwithstanding an appropriate role for regulation, making workplaces safer starts and finishes with workplace culture and attitude, not regulation. A commitment to prevention, to assessing risks and to managing risks does not just happen. An effective OHS culture requires all persons in the supply chain to accept shared responsibility. Aside from employers and employees, it includes manufacturers, product, process and workplace designers, employer representatives, unions, governments, politicians and regulators. Duties of each person should be independently held and not transferred to another.

It is recognised internationally that sensible health and safety is about managing risks, not necessarily eliminating all of them. The people best placed to make workplaces safer are the employees and managers who work in them. The principles that underpin good workplace relations – such as communication, mutual respect, co-operation and personal responsibility, are the values that generate a culture of shared responsibility and the individual and collective pursuit of better OHS outcomes.

Australian industry is investing more time, effort and capital in making workplaces safer. Many Australian employers have very good OHS systems which compare favourably with equivalent employers across the globe. Employees' whose working lives are injury free, at least in part because of the contribution they and those around them make to safety, make a valuable contribution to the business that engages them, the wider community and their own personal well-being.

Unfortunately, not even the best performing workplaces can guarantee a perfect safety environment. Despite the excellence of safety systems, accidents and injuries still occur. The role of governments and regulators is to focus on what is reasonable, practical and achievable and to make the right interventions if and when they are needed. This means a framework that facilitates OHS awareness and culture in workplaces and not the micro management of OHS in workplaces. For the framework to be effective, it must be consistent with the realities of operating businesses in the modern economy and with a mobile labour force.

Regulation must adequately recognise the differing capacities of various employers', especially small and medium businesses, given the growth of small business in Australia. OHS regulation which is complex, out of date, impractical or uncertain is of no value to employers or employees in the workplace. It is unacceptable for an employer to not know what is expected of them by OHS regulators. Poor regulation significantly undermines the

commitment of employers and employees to improved safety performance, and for employers, can diminish the capacity to comply.

Industry recognises that a regulatory framework must provide enforcement mechanisms for mandatory obligations. Whilst there is a role for clearly defined legal obligations and ultimate sanctions and penalties for breach of obligations, enforcement activities by Australian OHS policy makers and authorities need to be carefully reviewed. Compliance activities require a judicious mix of information, assistance and persuasion on the one hand and penalties and enforcement on the other.

GENUINE OHS TRAINING TO BE ALLOWED AS A BARGAINING MATTER IN AGREEMENTS

ACCI members and Australia's employer organisations also deliver a substantial amount of training to industry on OHS issues and industry specific bodies that have expertise in safe design. Training and education initiatives play a vital role in ensuring that everyone in the workplace is equipped with the necessary OHS knowledge and skills. The attitudes and behaviour of workplace parties will be influenced by information and training that is directly relevant to them and deals with the environment in which they operate. Information and training programs should therefore be tailored to the needs of the industry or the enterprise. They can help drive cultural change.

Every opportunity should be taken to ensure that an awareness of OHS issues is incorporated into appropriate vocational education and training programs, as well as employee induction. However, training and education is often best delivered through business organisations and at the enterprise level through direct engagement between employers and employees. Industry stakeholders should contribute to the process of developing a training culture, whilst ensuring that OHS training is sufficiently flexible to be relevant to the diversity of Australian workplaces.

At a workplace level, the effectiveness and impact of training and information which is provided should be evaluated for its ability to bring about workplace change and improved OHS performance. Wherever practicable, training initiatives should involve both management and employees to ensure common understandings and approaches to workplace safety. The workplace parties should be provided with consistent messages to implement systems for OHS management and to constructively resolve problems as they are encountered.

While it is important that OHS objectives are not complicated by industrial relations disputes and agendas, there are many workplaces where employers and unions agree on OHS training arrangements. It is important that the industrial relations system acknowledges this reality, and ACCI is in discussion with industry, governments and the ACTU on the extent to which the formal industrial relations bargaining system can or should deal with genuine OHS

matters such as company-based OHS training. This is one area where the bargaining restrictions in the WorkChoices laws need to be reassessed, although it is equally important that any easing on the restrictions does not give a lesser priority to OHS matters.

DANGER OF EMPLOYERS CUTTING BACK ON OHS INVESTMENT AS THE ECONOMY TIGHTENS

As the economy tightens and operating conditions tighten, employers need to be mindful that cut-backs in OHS investment could be counterproductive. This is always a risk, but would be a false saving if areas of cost reduction resulted in less attention to hazard identification, safe systems of work, or OHS training and education.

OHS AND SMALL BUSINESS

Reaching and actively engaging with small businesses continues to be a major challenge for governments and regulators. They rely heavily on employer and industry associations for this purpose. Non-threatening environments work best. Small business operators will think twice about accessing advisory services that are provided by the same authority that manages the inspectorate services. As this group of businesses operate the majority of workplaces in Australia and employ around half of the workforce, it is vital that small business is not forgotten. They must be recognised by all stakeholders as having a different range of needs to other OHS stakeholders. OHS systems must be sympathetically crafted to the special needs of business with lower level skills or resources. It is important that OHS campaigns are also tailored to reach SME's and that those parties involved in the review and development of Regulation and Codes seriously consider the impact on small businesses.

SUPPORT FOR OHS HARMONISATION

Industry supports the principle of national harmonisation of OHS laws. However, if we are to harmonise regulatory systems, then those systems must be balanced and based on best practice regulatory design, be evidence based and tested against outcomes. ACCI has welcomed the review into national model OHS laws and will be lodging a submission in July. The review provides an opportunity for industry for more streamlined and balanced OHS regulation, and laws that encourage improved workplace safety cultures and systems through communication, planning, awareness-raising and sensible enforcement. The content of model harmonised OHS laws should result in a balanced system of rights and obligations that is able to be understood and applied in practice by employers ranging from nationally operating large and diverse corporates to the small and medium business sector.

MORE WORK NEEDED ON WORKERS' COMPENSATION

ACCI believes more work needs to be done on workers' compensation and would like to see the government supporting more work on structures in this area. ACCI welcomed the review into self insurance arrangements at the start of the year. ACCI encouraged the Federal Government to lift the moratorium preventing self insured national companies competing with government corporations from entry into the national workers' compensation system. The lifting of the moratorium should occur so long as government maintains sufficient resourcing capacities for the over watch of the Commonwealth scheme.

Self insured national companies moving into the Comcare scheme are high performers in safety and rates of return to work, and their entry to the Comcare scheme would add to economic efficiency and equity in those businesses. The move of national self insured companies into Comcare is unlikely to have any major impact on state schemes, however ACCI does caution against the wholesale move of employers into a single national workers' compensation scheme. The circumstances of business generally require much more detailed policy and actuarial analysis.

Small business in particular, most of which are intra state employers only, need efficient and competitive workers' compensation schemes, and competitive federalism where multiple schemes exist may be needed to deliver that outcome. ACCI does not advocate one national workers' compensation system for the whole of the private sector, though we do support appropriate national consistency amongst the laws and process of regulators in the various jurisdictions. There may also be significant advantages from competitive federalism in what is a fee paying area of policy.

ACCI doesn't consider the Comcare scheme to be deficient in its overall benefit structure for workers' compensation. We consider that regular actuarial reviews of the Comcare scheme are needed as the private sector profile increases. The scheme was not designed for a private sector profile. This does not mean that good performing private sector employers migrating to the scheme will or do cause problems for the scheme. However, actuarial and policy consideration should be given, over time, to the scheme and whether new alternatives to it should be created.

ACCI supports the following structures in a Commonwealth scheme – they are based on sound public policy principles; pose minimal financial risk or cost to the Commonwealth; allow for transparency in the self insurance licensing process; effective controls and governance; effective and appropriate enforcement; and minimising impacts on the financial viability of state and territory workers' compensation schemes.

ACCI is committed to a workplace injury management environment that focuses on enabling injured workers to achieve durable return to work outcomes and seeks to reduce the incidence and cost of workplace injury and disease. The member organisations of ACCI are committed to cost effective injury management and compensation schemes which are economically sustainable and sensitive to the workplace and commercial circumstances of employers, including small business. We are also committed to the establishment of nationally harmonised systems that provide consistency in the provision of appropriate support to workers following a workplace injury. Specifically these systems should provide consistent principles in premium determination, statutory benefits, injury management, dispute resolution, mutual responsibilities and common law.

Workers' compensation and complementary arrangements can play a vital role in improving workplace health and safety. They can encourage prevention of work related injury and disease, compensate for such disabilities when they occur and make provision for rehabilitation and early return to work as a normal expectation. Nationally consistent workers' compensation systems incorporating a range of key fundamental principles, which are implemented and applied consistently in all jurisdictions, is the core of the ACCI worker's compensation policy. ACCI strongly supports the option for employers to self insure. The ability of an employer to seek self insurance should be continued, with appropriate criteria to ensure this option is financially sustainable. ACCI's policy supports durable return to work as the cornerstone of all workers' compensation systems. All systems should incorporate this and seek to achieve a return to work culture by encouraging both employers and employees to actively participate in rehabilitation programs for their workplaces.

CONCLUSION

In summing up, it is true to say there is a lot of activity going on in OHS, with the undertaking of the national OHS review in model laws, the review into self insurance arrangements and the replacement of the ASCC. Some of these activities may bring about changes in the OHS landscape. As the peak employer body we will continue to seek better OHS outcomes – whether in culture, in data, in regulation, in tri partite engagement, in promotion, in training or in sensible enforcement. ACCI will continue to work constructively and diligently with all OHS stakeholders – especially the governments and the ACTU to achieve the common goal of a better outcome in workplace safety for all our community.

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