



**ADDRESS TO THE AUSTRALIAN FINANCIAL
REVIEW WORKPLACE RELATIONS
CONFERENCE**

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INTRODUCTION

Thank you indeed Ben for that introduction, let me thank the Deputy Prime Minister for her remarks and welcome all other speakers and panelists who are and will be with you over the next couple of days and also acknowledge business colleagues and colleagues from the union movement.

Ladies and Gentlemen,

I noticed that the instructions to us all said 'bring a coat and layered clothing'. I don't know if you read the fine print on your instructions. I was reflecting on that as I was riding my bike into the office this morning. I came to the conclusion that ultimately it was because we are down here at Docklands where it can get pretty windy and changeable. I don't know whether as some of us who have been through the COIL process (not me personally but others associated with ACCI and others in this room), it may be that a coat and layered clothing is what's been necessary to withstand ten days of technical rigor!

I was also reflecting as I was coming into the office this morning that we are facing at the moment about the 7th major change to Industrial Relations arrangements that I have been involved with in my career. In South Australia in 1983 and 1994, and at a Commonwealth level, five such significant changes: in 1988 after the Hancock Committee Review which some of us will remember, the 1993 changes by the Keating government, the 1996 changes by the Howard government, the 2005 changes by the Howard government known as WorkChoices and now what will become the 2008/09 changes by the Rudd government.

What that means is that there has been a very significant degree of change to institutional arrangements to legal rights and obligations and also to the conduct of industrial relations over that time. That is not a bad thing in one sense because we live in an environment where both our society and our economy are constantly changing and critical structures and institutions and frameworks particularly those that deal with our workplace (which impacts so directly on society and the economy) need to change in a progressive way. So I am not critical of change having occurred over periods of time; but there are a number of important expectations that business has in respect of changes when they occur and that's going to be the subject of my discussion today, as I have been invited today to speak to you about the needs of industry in this context.

The context in which we come to the issues is that there is unquestionably an expectation of change. The government has significant political capital to make change. The government has indicated clearly to the Australian community that it intends to make significant changes to current arrangements and to 'get rid' of WorkChoices in that respect and the government has a detailed policy that it laid out in April and particularly in August of last year to that effect. So the expectation of change is clearly there.

The government has also however indicated that when it comes to dealing with economic matters (and workplace issues affect the economy as much as they affect individuals working in workplaces) the government will act in a conservative manner. Further, the government has also made a range of commitments to business over the course of outlining its plans both prior to last year's election and in the context of the first eleven months of the government's term which are equally as important as the commitments its made in a broader sense to make substantial change to the 2005 legislation.

So is the government in a strong position in this respect? It may seem so, but there is one major headache. That headache is the economy. There is no doubt that the environment in which government framed its proposals last year and the environment in which the government was developing the first phase of change the legislation that was passed in March occurs in a different context to what we find ourselves right now. The global financial crisis is swirling around us. That is giving rise to a global economic slowdown.

There has been unprecedented action by central banks over the course of the past month. Meetings of G7s of the EU governments, of G12s, forthcoming meetings of G20s, governments around the world coming together to deal with an economic storm. There have been impacts on the real economy globally and domestically. We've had an unprecedented fiscal stimulus injected into the Australian economy \$10.4bn. We have businesses facing a credit squeeze. We have confidence and sentiment down. We've had some very significant decisions made by our Reserve Bank in conjunction with other central banks just a few weeks ago to reduce rates by 1 full percent, a 100 basis point reduction. Overnight we hear news of further reduction by the US Reserve in respect to interest rates and yet we still have a major inflation issue in the country, a 5% inflation rate which, if removed from all of that I just said, would itself be a tremendous challenge for us as a nation to keep under control.

Globally unemployment is forecast by the International Labour Organisation to rise by 20 million people as a consequence of the global slowdown. Let me repeat - the ILO estimated last week the global unemployment will rise from 190 million to 210 million. Domestically even before we faced what has occurred over the course of the past 6 to 8 weeks, budget forecasts in May were of rising unemployment in our own economy. As the Treasurer said a few weeks ago, the world changed last month. We are in a storm. It may not be a storm which is of our making, but it is a storm which is our responsibility as a community, as governments, as business, as unions, as people involved in public policy to manage.

So what do we take from this in an IR context?

What we must do is to recognise that it would be a risky thing to be adding costs or inflexibility into our economy

and into the management of business at a time when there are such challenging circumstances around.

No past changes that I mentioned were made in the eye in such a storm. The 1988 changes were made in relatively good economic times, the 1993 changes were made coming out of a recession and they were made in order to inject absolutely necessary flexibility into the labour market after other institutions were opened up in the mid 80s. The 1996 changes were made again as we were in a period of growth coming out of a recession and the 2005 changes were made at what now looks like when we were at the time at a peak of a cycle.

So there is a tremendous policy challenge for the Rudd government and for the industrial relations community if we are to make major changes to our industrial relations frameworks in this environment.

All of the past changes that I have outlined have had a golden thread to them and that is they have progressively moved towards the opening of our labour market by measures which have added decentralisation in decision making and which have created a system of enterprise bargaining which has created a system where fewer decisions are made at central levels by government and more decisions are made in workplaces themselves.

The real challenge now presented in trying to construct and then implement the policy that the Rudd government has before us, because that it is a policy which in a number of respects is going to add some regulatory controls back into the system and does so because the government's proposition is that the 2005 changes went too far. My message is that there are a number of risks associated with doing so, so extreme care is required. The economic risks are swirling around us. There are legislative risks in overregulation and there are also risks to business in the Award Modernisation process.

There are also opportunities and I think it would wrong to just be identifying risks without recognising that opportunities exist. There was a very important and significant growth in productivity as a consequence of the introduction of enterprise bargaining in the early 1990s. To a certain extent, by 1993 and 1996 there was a pent-up demand for that productivity to be achieved through enterprise based decisions that removed inefficient work practices that had been built up through the award system. A collective bargaining system can operate if the parties to that system at an enterprise level apply their mind in a constructive way to mutual benefits. It can deliver increased productivity and that is going to be one of the critical challenges of the new system. But collectivism should not be at the expense of individual fair-dealing.

Enterprise bargaining and productive employer – employee relations can be important drivers of productivity growth. Australia will not be able to withstand the economic storm

unless we lift our national productivity. If the government does get its policy settings right and the changes contribute to economic well-being, then the government will have done something which other governments have not been able to do, introduced major change in the context of an economic storm. What we cannot do is to see the industrial relations changes as divorced from what needs to be a coherent economic message. In other words, part of a coherent economic plan. You cannot divorce the page 1 stories that we read in the Financial Review about what is happening in the economy and the sentiment that is coming through business surveys and the impact on business activity from the page 3 stories about the proposals to amend our industrial relations laws. They are integrated messages. They have to be integrated messages. We will make a mistake as a business community, as a union community, as an industrial relations community and as a general community if we see these as divorced or separate issues.

So what does business need from the government at this time? I'll just list a number of matters which will prompt thinking both in the context of this morning's session and over the next couple of days. Business needs the new industrial relations system to meet a number of key business criteria. I'll outline those in a moment.

Business would be looking for a minimum of disruption in the way in which a new system or changes to existing laws are introduced.

Business needs proposals to be the subject of consultation and by and large the government in the way that the Deputy Prime Minister has just outlined has embarked on a much more intensive process of consultation than had been previously undertaken and I think that is to its credit and hopefully will reflect at least in legislation which is more workable from a practitioner's point of view.

Industry needs the government to deliver a durable national system as part of this process I've been very strong in my advocacy over a number of years for a national industrial relations system and I say that as a person who come out of State industrial relations system has absolutely no question that a national industrial relations system is in the interest of our country and our economy. That's putting to one side debates about the content of what a national system ought to look like and I would strongly urge State governments to look closely where the national interest lies in this regard, look closely at what has occurred in Victoria over a number of years under governments of different political persuasions and to recognise the most effective way for a national system to be created in this country is through a referral of powers which would create a durable national industrial relations system and one which ultimately would deliver a foundation for Australia to move beyond the old system where rights and obligations were arbitrarily determined based on either dispute logs or corporate structures or as the Deputy Prime Minister just outlined the process by which the business ultimately develops its corporate structures.

In that respect it is also important to reflect on the fact that even in respect of these distinctions between the public and the private sector there are areas of grey which will need to be addressed. There is a risk if we just try to create a national system in respect of the private sector that we still build an ambiguity into our coverage. The corporatisation of various public sector activities, the outsourcing of various public sector activities, the changes that have occurred in terms of the way in which the public sector delivers services are all matters which lend themselves to the conclusion that a national industrial relations system needs to be a comprehensive one.

Business also needs the government to meet the commitment that is made in respect of the detail of the industrial relations system and the way in which the Forward With Fairness policy would operate and there are a number of important commitments if we have got some time we can discuss those. Business needs the new system to be a modern industrial relations system. The government has indicated on a number of occasions over the course of the past 12 months that it is not interested in a system that is going back to the past. It has to be a system which is a system for the modern economy, the modern workplace, the modern way in which people work, a system that is compatible with the demographic changes in Australia.

A modern system is not a system that is a model based on one or other of the systems of the past. There are learnings and there are institutions that can be taken from previous systems, but if we are to craft a new industrial relations system, it has to fundamentally deal with how does our modern economy, our modern workplace and a modern society operate.

Further, an industrial relations system is not an end in itself. An industrial relations system is ultimately a set of laws and frameworks which are designed for purposes that deal with relationships between employers and employees in workplaces. It needs to complement employers and employee relationships. A framework is not there for practitioners, a framework is not there for institutions, a framework is there to complement what we need as industrial relationships between employers and employees, that build productivity, that reward effort, that provide fair dealings in terms of relationships and the safety net people rely on.

Business also needs the Parliament to do its job. All major changes to industrial relations proposals that I've outlined have been subject to amendment in the Senate over the years and I think we should approach this task entirely realistically, and expect the Parliament to scrutinize what is put before it and if necessary put proposals forward for amendment or change. For example, there were 170 amendments made in the 1996 process and sometimes amendments improve either policy or technical operation.

Senator Andrew Murray, who had been a long term member of the Senate (and had been I think probably the longest standing industrial relations spokesperson in the country until his term expired at the end of June) is not going to be a participant in this debate. That is going to put a lot of extra pressure on the Senate because Senator Murray had brought a level of understanding and perspective that could well be used over the coming months.

Finally what business needs is responsible business and union behavior both in the process of developing these changes and in the process of implementing them. Part of that is expectation management. Obviously there are very high expectations on the union side, and there are plenty of expectations on the business side, and those expectations go to a number of the core commitments the government has made, commitments that relate to the system being a system which the Deputy Prime Minister repeated this morning would be a system that will increase productivity.

We need to test the system against the mechanisms that offers to do that. Is it a system that will try to maximize employment in Australia? We need to test the system against that criteria. A system that would ensure that small businesses is not paying 'go away' money in respect of unmerited unfair dismissal claims. A system that has certainty and stability attached to it. In that respect, one aspect of stability is the smooth transition of institutional structures and I will give a big tick to what the Deputy Prime Minister has outlined this morning in terms of ensuring that the relationships between the Industrial Relations Commission and Fair Work Australia would occur in a seamless way with members transitioning. Obviously there are bigger issues about policy issues where disagreement exists. But the decisions that have been outlined this morning are decisions which will meet our expectations.

We have also got to ensure that we have responsible bargaining claims as the system is implemented and that's also expectation management. There is also a need for clear attention to the economic circumstances as the Deputy Prime Minister said this morning, this system has to operate in times and periods when we are in good economic health or when we are in difficult economic circumstances or bad economic health. I cannot emphasise too heavily the context in the economic context which I have outlined. Finally, responsible behavior also means careful attention to demarcation issues; we cannot as a community afford to have demarcation breakouts. There is always potential for that when you change frameworks and also when you change award structures.

I might leave my remarks at that point and be pleased to take some questions as a result of what I have had to say. Thank you.

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