



## ACTU's 'Facts' Undermine OHS Debate

---

The Australian Council of Trade Unions (ACTU) has recently been active in the public arena, advocating its demands of Federal, State and Territory Governments to change key aspects of the proposed national Model Occupational Health and Safety (OHS) Act.

The ACTU is calling for a union right to prosecute and reverse onus of proof to be part of the model legislation<sup>1</sup>, despite an expert independent Review Panel and Australia's Workplace Relations Ministers rejecting these measures outright, after extensive consultation and careful consideration.

Central to the ACTU's arguments have been their use of statistics and research that they have presented as fact. However, closer examination of the 'facts' quoted by the ACTU shows that their figures are inaccurate or lack validity, and therefore many of the ACTU's statements about the proposed OHS legislation cannot be substantiated.

The Australian Chamber of Commerce and Industry (ACCI) outlines the key issues below:

### Regarding Australia's OHS Performance – the ACTU says:

"Australia is falling well short of national targets to reduce workplace deaths and injuries and proposed new national Occupational Health and Safety laws could put Australian workers further at risk"<sup>2</sup>.

### The facts:

According to the *National OHS Strategy 2002-2012 Progress Against Targets* document compiled by Safe Work Australia, "The incidence rate of compensated fatalities from injuries and musculoskeletal disorders decreased 16% from the base period<sup>3</sup> to 2006-07. This exceeded the interim target of 10% by June 2007"<sup>4</sup>. Therefore Australia is actually ahead of interim fatality targets under the National OHS Strategy, not "falling well short" as claimed by the ACTU.

The Safe Work Australia report goes on to say "There was a 16% improvement recorded in the incidence of injury and musculoskeletal claims between the base period and 2006-07, which means the interim target of a 20% reduction by June 2007 has not been met".

Australia is four percentage points behind the interim target for the reduction in the incidence of workplace injury, again, this is far from "falling well short". Such an improvement in the incidence of workplace injuries should be acknowledged as a positive achievement while recognising that there is more work to be done by all parties to further reduce these rates.

---

1. See ACTU *Fact Sheet Don't Risk Second Rate Safety* at: <http://www.actu.asn.au/Images/Dynamic/attachments/6533/actufactsheet0905-ohs.pdf>, May 2009.

2. See ACTU media release *Poor safety record adds to case for stronger protections of workers* at: <http://www.actu.asn.au/Media/Mediareleases/PoorsafetyrecordaddstocaseforstrongerprotectionsOfWorkers.aspx>, 18 August 2009.

3. The baseline used by Safe Work Australia for measuring progress towards the targets is taken from the data for the three year period 2000-01 to 2002-03 in order to smooth volatility that could result from selecting only one year.

4. See Safe Work Australia report *National OHS Strategy 2002-2012 Progress Against Targets* at: <http://www.safeworkaustralia.gov.au/NR/rdonlyres/6F8CFF3D-DD46-4F19-83D5-7A066CED9C3D/0/NationalStrategyProgress200607.pdf>

**Regarding the number of annual workplace fatalities - the ACTU says:**

“With an estimated 7,000 Australians dying each year as a result of workplace injuries or diseases it is essential the governments’ proposed changes to workplace health and safety do not undermine standards or put more Australian workers and their families at risk”<sup>5</sup>.

The number of workplace fatalities equates to “more than four times the annual road toll”<sup>6</sup>.

**The facts:**

According to the most recent official statistics available there are an estimated annual 270 fatalities while working for income<sup>7</sup> and 2210 work-related disease fatalities<sup>8</sup>, making a total estimate of 2480 fatalities, not even close to the 7000 claimed by the ACTU.

Estimating the annual number of work-related disease fatalities is a complex and difficult task given the multitude of causal factors associated with deaths attributable to disease and the difficulty in determining work-relatedness.

In a 2009 report *The Cost of Work-Related Injury and Illness for Australian Employers, Workers and the Community*, the Australian Safety and Compensation Council (ASCC), now known as Safe Work Australia, stated “Disease fatalities estimates are assumed to be a similar level to the previous study (2210 total work-related disease fatalities). Disease fatality estimates are considered to be a conservative estimate, with studies estimating that as many as 7000 fatalities may occur each year as a result of work-related disease”. The official nature of this statistic was reinforced in the First Report of the National Review into Model OHS Laws which stated that “It is estimated that more than 2000 Australians die each year as a result of a work-related disease”<sup>9</sup>.

By claiming that 7000 Australians are dying each year as a result of workplace injuries, the ACTU has chosen to ignore the official estimates and selectively use the upper most estimate quoted, which is far in excess of the official figure.

Therefore, a key statistic that the ACTU is using as evidence in support of their *Don't Risk Second Rate Safety* campaign is simply incorrect and grossly overstated.

**Regarding public opinion about OHS laws - the ACTU says:**

That the ACTU’s “national poll of 1,013 respondents was conducted by Essential Research” and “shows the Australian public don’t want workplace safety rights undermined”<sup>10</sup>.

**The facts:**

The survey was conducted by Essential Research which is the research division of Essential Media Communications (EMC).

According to their website “EMC is a strategic public affairs company dedicated to helping you win your campaigns and bring about positive change. We do this by helping organisations develop successful communications and campaign strategies, use research to increase audience support for the issues involved and communicate successfully with the media,

---

5. See ACTU media release *Workers call for stronger health & safety laws with national meetings and rallies* at: <http://www.actu.asn.au/Media/Mediareleases/Workerscallforstrongerhealthsafetylawswithnationalmeetingsandrallies.aspx>, 31 August 2009.

6. See ACTU media release *New poll: Australians want workplace safety rights protected under new OHS laws* at: <http://www.actu.asn.au/Media/Mediareleases/NewpollAustralianswantworkplacesafetyrightsprotectedundernewOHSlaws.aspx>, 1 September 2009.

7. See Australian Safety and Compensation Council, *Work-Related Traumatic Injury Fatalities 2005-06* at: <http://www.safeworkaustralia.gov.au/NR/rdonlyres/18308587-CF0F-4B18-BE78-6E7233AA345F/0/TraumaticInjuryFatalities200506.pdf> September 2008, pp.1.

8. See Australian Safety and Compensation Council, *The Cost of Work-Related Injury and Illness for Australian Employers, Workers and the Community: 2005-06* at: [http://www.safeworkaustralia.gov.au/NR/rdonlyres/EAD5247E-98E7-4750-A35E-A6BC9B1E7781/0/CostsofWorkRelatedInjuryAndDisease\\_Mar2009.pdf](http://www.safeworkaustralia.gov.au/NR/rdonlyres/EAD5247E-98E7-4750-A35E-A6BC9B1E7781/0/CostsofWorkRelatedInjuryAndDisease_Mar2009.pdf), March 2009, pp. 20.

9. Australian Government. *National Review into Model Occupational Health and Safety Laws: First Report to the Workplace Relations Ministers' Council* - October 2008, pp. 14.

10. See ACTU media release *New poll: Australians want workplace safety rights protected under new OHS laws* at: <http://www.actu.asn.au/Media/Mediareleases/NewpollAustralianswantworkplacesafetyrightsprotectedundernewOHSlaws.aspx>, 1 September 2009.

the public and decision makers, both online and offline”<sup>11</sup>. This speaks for itself in terms of the validity of the survey results.

Curiously, the ACTU has not made the research, including the survey results, questionnaire and methodology, publicly available. This of course makes it somewhat difficult for organisations such as ACCI to scrutinise and validate the survey results.

At face value, the questions asked of respondents seem to be, at best, leading, based on some of the ACTU’s reported findings<sup>12</sup>, including:

*“Seven out of ten Australians (69%) believe that injured workers should be able to take their employer to court under workplace health and safety laws”.*

ACCI would be interested to know what question was asked of respondents to elicit such a response. If a question presents an issue that is over-simplified and pushes one side of a debate then a survey can easily draw out the result that the survey designer intends, rather than providing objective data to inform the debate. ACCI contends that if the following leading question was asked “Do you agree that in accordance with established legal principles only the Crown should be able prosecute an OHS offence but with the safeguard that they will be held accountable for inaction or a decision not prosecute?”, people surveyed would overwhelmingly respond in the affirmative.

*“... eight out of ten Australians (78%) believe employers should do more to protect the health and safety of their workers, even if it means more costs or red tape for their business”.*

ACCI hypothesises that a similar proportion of respondents would have also agreed that employees, unions and regulators should do more to improve OHS outcomes, if they had been asked.

However the best indicator of the lack of validity of the ACTU survey is demonstrated by this survey result: “... nearly seven out of ten workers (67%) are not aware that the governments are working together to standardise the nation’s occupational health and safety laws” – therefore how did those seven out of ten respondents have sufficient understanding of the issues to provide an informed response? Were they led to provide answers that would support the ACTU campaign?

Now despite the ACTU not making the report publicly available and not responding to ACCI’s request for a copy of the report, the ACTU did selectively make the report available to respected OHS website Safety at Work Blog<sup>13</sup>. The Safety at Work Blog’s coverage of the research gives the ACTU’s game away with the quote “85% were not aware that workplace deaths (quoted from an unreferenced Government report) are “four times the annual road toll”. Kevin Jones, the website’s editor, rightly remarks that “80% think more should be done about OHS. However, if this question was asked after the previous one that compares workplace death to the road toll, the high response is not unexpected”.

If respondents have been asked a leading question which highlighted the ACTU’s incorrect claim that the number of workplace deaths is four times the annual road toll, the responses would be biased and of no value.

Research, if it is to be used by the ACTU as part of the debate, should be made freely available to the public to allow for appropriate scrutiny of the methodology.

The ACTU’s survey research lacks independence, transparency, objectivity and validity. Again, this research has been used by the ACTU as a key aspect of their current OHS campaign, and therefore it undermines the credibility of their arguments.

---

11. See Essential Media Communications website at <http://www.essentialmedia.com.au/>

12. See ACTU media release *New poll: Australians want workplace safety rights protected under new OHS laws* at: <http://www.actu.asn.au/Media/Mediareleases/NewpollAustralianswantworkplacesafetyrightsprotectedundernewOHSlaws.aspx>, 1 September 2009.

13. See Safety at Work Blog article *Australian survey on attitudes to OHS and laws* at: <http://safetyatworkblog.wordpress.com/>, posted 2 September 2009.

**Conclusion**

Despite an extensive review process that has been completed and with all key policy decisions already made, the ACTU has been publicly campaigning in an attempt to persuade Australia's Workplace Relations Ministers to include a union right to prosecute and a reverse onus of proof in the national Model OHS Act.

Central to the ACTU's arguments has been their use of statistics and research that they have presented publicly as fact. However, analysis of the ACTU's 'facts' shows that many of their figures are inaccurate or lack validity, thereby further undermining the credibility of the ACTU's campaign for changes to the model OHS legislation.

Of course the wider debate regarding harmonisation of OHS legislation should be had, but it should be based on evidence and facts.

In order to build upon the gains made to workplace safety over the past decade, all workplace parties, including businesses, need to provide greater leadership and find ways to further reduce workplace injuries. Those gains will not be made through the legislative changes proposed by the ACTU which provide for no demonstrable safety benefits. Safer workplaces can be achieved through a genuine partnering by businesses, workers, unions and regulators in working together collaboratively to continually improve workplace OHS systems, procedures and importantly, attitudes. We must ensure that that the debate about OHS legislation does not distract from the focus on day to day safety in the workplace.

Australian Chamber of Commerce and Industry  
Occupational Health, Safety and Compensation Unit  
Phone (03) 9668 9950