

**ACTU CONGRESS SEPTEMBER 1993  
UNION RATIONALISATION POLICY**

1.1 Congress believes that the ACTU should promote:

- (i) The rationalisation by agreement of union coverage with the aim of significantly reducing the number of unions within each enterprise or industry. Such unions may be occupationally based or industry based. As part of such a rationalisation of union coverage the members affected should be fully consulted and their existing and future rights and conditions properly protected. Congress supports the following union categories under union rationalisation:
  - a) A Principal Union - A Principal union shall have the capacity to recruit all employees in a given industry or, in certain cases, defined occupational category and shall recognise significant and other unions in the industry or occupational category and seek to reach agreement with them as to membership coverage and recruitment.
  - b) A Significant Union - A Significant Union is one which has:
    - i) A substantial number of members in an industry or occupation.
    - ii) Agreed to be part of a single bargaining unit with the Principal union or unions.
    - iii) The capacity to maintain and recruit membership provided that, by agreement with the Principal union or unions, a Significant union may be able to recruit membership beyond its existing area of coverage with a view to maximising unionisation; or
  - c) Other Unions - Other unions do not have a substantial number of members. They may be able to maintain membership on the following basis:
    - i) They represent those employees who desire to have the union represent them.
    - ii) They will not stand in the way of any employee wishing to join the Principal union or unions.
    - iii) They agree to be part of a single bargaining unit.
    - iv) They service the membership.
    - v) The continuation of award coverage shall be subject to periodic reviews.
- (ii) A union's status may be reviewed if it fails to service the needs of the workforce. Such union status will be reviewed by the ACTU Executive/Council. Grounds for review will include inadequate overall unionisation rates and a failure to extend unionisation into all areas of the workforce. Some unions have been granted coverage of areas outside their traditional membership but have failed to make the necessary cultural and organisational changes to recruit across the workforce.
- (iii) The rationalisation of union resources through the establishment by agreement of small negotiating committees within each enterprise or industry.
- (iv) The process of rationalisation should be by agreement between unions. In determining this agreed position paper consideration shall be given to the wishes of workers concerned and to the occupational nature of their organisation. The ACTU should actively assist in reaching such agreements. Arbitration should be a last resort.
- (v) The total unionisation of an enterprise and an industry by appropriate union agreements. In determining such agreements, consistent with paragraph 3.1 (iii), the views of trade unionists in relation to which union best represents their interests shall be taken into account.
- (vi) That these measures should be taken as a further step towards the achievement of the

constitutional imperatives of the ACTU in "meeting the objectives of the closer organisation of workers by amalgamation of unions where practicable to establish one union in each industry or sector.

- (vii) Rationalisation and restructuring of unions on terms that are not dictated or determined by employers and/or governments.
- 1.2 Given the institutional and organisational barriers to amalgamation, Congress believes that steps should also be taken to facilitate the restructuring of trade union movement on the area of overlapping union coverage. It is acknowledged that the ACTU has a role in assisting unions to rationalise membership coverage.
- 1.3 Congress declares that in achieving the rationalisation of Australian Trade Union structures, the Executive must attempt to prevent circumstances whereby unions are placed in an environment of open competition with each other over union membership.
- 1.4 The primary aim of the rationalisation process must be to reduce the number of unions in each industry and to develop structures that will enable unions to co-operate one with the other to expand areas of union coverage to those sections of the workforce currently not organised.
- 1.5 Single union coverage is not appropriate for all industries. In some industries multiple union coverage will remain. There may be a place for differing unions covering the administrative and clerical, production and maintenance and in some cases professional areas.
- 1.6 Congress views the operation of competing bargaining units within enterprise or industry sectors as counter-productive to the aims of the trade union movement to improve living standards. Unions must act co-operatively within a single bargaining unit to maximise the benefits of union membership for workers.
- 1.7 Congress resolved that no affiliate should seek to use union restructuring to extend their membership beyond their constitutional coverage, other than where the ACTU has granted in terms of ACTU policy, principal union status, or where there is no principal union, a union has been granted significant union status and is authorised by the ACTU to extend its constitutional coverage.
- 1.8 No union should enter into an arrangement with an employer for coverage of another union's members. Where change is contemplated with respect to union coverage, all unions have a responsibility to ensure proper consultation occurs through the processes of the trade union movement and the outcome is consistent with ACTU policy.

## 2 Unionised Sector

- 2.1 The "Overall Union Coverage" document to be finalised by the December Council meeting should be recognised as being the framework for union coverage into the future. No union may seek to recruit outside of its recognised area of coverage unless this has been endorsed by the ACTU Executive/Council.
- 2.2 Within the terms of this structure the unions should be prepared to consider longer term strategic trading and recruitment arrangements such as those entered into by a number of unions.
- 2.3 Where agreement cannot be reached and/or the matter is referred to the ACTU for determination and if the disputed area is outside the recognised areas of coverage outlined in the 'Overall Unions Coverage' document the following criteria will be applied:
  - i) What is in the best interests of union organisation?
  - ii) What is the view of the membership? A ballot of members may be conducted to determine their preferred union. Where the issue involves two unions, 'a first past the post' system will apply. If it involves more than two unions a preferred system will apply.

iii) Will the decision maximise the wages and conditions of employees concerned?

2.4 In determining the ACTU's position it shall have regard to all the factors in (i), (ii) and (iii) above in order to ensure that any decision has not been duly influenced by an employer's agenda. In addition, the ACTU will also ensure that the above process is not used as a way of destabilising unions by the use of disaffected groups.

### 3 Non-Unionised Sector

3.1 Where a company is not unionised and its coverage falls within the recognised area of the "Overall Union Coverage" document the appropriate union or unions will be given full scope to unionise all employees.

3.2 Where a company is not unionised and a union seeks to unionise the workplace but is does not come within the scope of the unions coverage it shall be able to seek the right of recruitment from the ACTU Executive/Council provided that it has complied with ACTU policy in relation to the matter.

### 4 Greenfield Sites

4.1 A greenfield site essentially involves a new operation. In considering any such development it is important to have regard to the circumstances of the new development and particularly where there is a continuation of a person's contract of employment.

4.2 While not being considered as tests in isolation unions should address the following questions when seeking ACTU approval for a greenfield site:

- i) Is there a new contract of employment?
- ii) Has there been substantial change in ownership and/or management?
- iii) How does the work organisation compare with established work organisations in similar enterprises?
- iv) Has there been a substantial new investment in absolute or relative terms?
- v) What is the view of the principal union in the industry?
- vi) What is the employer's view?
- vii) Are existing employees being relocated?

4.3 A single union agreement on any greenfield site must meet the following conditions:

- i) The party to the agreement shall be the principal union or principal unions or by agreement between principal unions in the industry
- ii) All employees are covered by the agreement.
- iii) The agreement does not reduce existing conditions in the industry or minimum award conditions.
- iv) The principal union/unions has consulted other unions in the industry.

### 5 Contracting Industry

5.1 Subject to the provisions 3.9 and 3.10 the following shall apply:

#### 5.2 Contractors

- (i) There is in many cases a contracting industry, that is the relevant industry is the industry of the contractor. This industry is defined in terms of the functions or services it provides.

#### 5.3 Role of Contractors

- (i) The ACTU policy does not promote contracting out. In most cases the preferred view of

employment is the standard employment contract between employer and employee.

- (ii) However, when contracting and sub-contracting arrangements are made the ACTU believes that certain conditions should apply - these include:
  - a) Wage rates and general conditions must not be less than those available for comparable employees.
  - b) Superannuation must be available.
  - c) Workers compensation protection must be provided.
  - d) The change from employment contract to contractor must not be based on tax avoidance arrangements of any kind.
  - e) Union membership must continue, but not necessarily with the same union.

#### 5.4 Issues in Considering Union Representation

##### (i) Genuine Contracting

- (a) Although it is not clear in every case there is in many cases a distinction that can be made in terms of contractors.
- (b) There is a well established industry in many fields - driving, cleaning, catering, security, some maintenance and construction services. The companies are well established and provide a specific service. The employees work for the contracting company and may work for a number of clients. Such industries have been recognised by the ACTU as part of its union rationalisation process.
- (c) The nature of contracting out work needs to be examined in relation to various factors eg the range of functions carried out, the coverage across the industry, the turnover of employees and whether or not the contract is 'genuine' ie that it is not a mere contrivance by the principal to avoid its award obligations. In such cases detailed consideration of the bona-fides of the contractor company and the arrangements that are made with its workforce needs to be examined.
- (d) A contrived contracting arrangement should not be the basis for altering award conditions or union membership.

##### (ii) The History of Union Representation In The Industry

- (a) In considering union representation the history of representation is a relevant consideration.
- (b) A history of union representation in either the contracting company or the principal employers would be important in establishing the bona fides of the contracting, as well as being a relevant consideration as to appropriate coverage.

##### (iii) Increasing The Number Of Unions In The Industry

- (a) The ACTU policy calls for a reduction in the number of unions in an industry. If the contractor is genuine and is part of a Contracting industry, then this will not add to the number of unions in the principal company's industry.
- (b) In fact extension by the Union in the principal company's industry to coverage of the employees of the contractor would increase the number of unions in the relevant Contracting Industry and this may not be conducive to the development

of effective enterprise arrangements.

(iv) Consistency with ACTU Classifications of Principal, Significant and Other

Unions should be entitled to representation on the basis of principal, significant and other classification. Some contracting functions could be classified as industries. Consequently there are both horizontal and vertical considerations. In rationalising the principal company's industry, the ACTU has excluded bona-fide contracting. It has rationalised the contracting industry in a similar way ie principal, significant and other.

6.1 Congress authorises the ACTU Executive to vigorously oppose any unions which act contrary to this policy.