

**The union movement's views and priorities**

**Address by ACTU Secretary Dave Oliver to the Australian Industry Group PIR conference  
Monday, 6 May 2013, Canberra**

Today, I'd like to talk about three issues: industry policy, the industrial relations landscape, and the relationship between the union movement and the Ai Group.

**1. Industry policy**

Despite the doomsday predictions, manufacturing continues to employ close to a million people, generates billions of dollars in export income and makes a huge contribution to our skills base and to research and development.

I'm a strong believer that Australian manufacturing has a bright future, as long as we have the right settings in place with strong government support.

We should never allow industry to become a political football. I was extremely concerned to see the comments of the Victorian Treasurer Michael O'Brien in the *Financial Review* today. Victoria is the heartland of manufacturing and it is disturbing that the state's Treasurer wants to sacrifice industry support for manufacturing on the altar of ideology.

We must be prepared to join together when politicians such as these engage in this kind of behaviour and threaten to take away support for our industry.

Don't ever forget that the union movement is one of the biggest supporters of the manufacturing industry, alongside yourselves.

But I don't need to tell you that manufacturing is going through a tough time – as your latest PMI index reported last week.

Unions fully understand the pressures the sector has been under for several years from the high value of the Australian dollar, which is a major burden on domestic producers. The Aussie dollar is now worth 50% more, relative to a trade-weighted basket of currencies, than it was in the first 20 years after the dollar was floated in 1983.

The contraction of manufacturing has been taking place over a long period, but we have to acknowledge that the last couple of years, when the number of jobs in manufacturing fell below a million for the first time in several decades, is not business as usual.

Now, more than ever, we need strong government support for our industry, such as:

- Investment in infrastructure;
- Incentives for research and development;
- Attraction of investment through co-investment programs;
- Investment in skills and training and apprenticeships;
- Improving the image of manufacturing;
- Removing barriers to overseas markets through trade negotiations;
- Strong anti-dumping measures;
- And an environment that fosters collaboration, not confrontation.

There will be some who will seek to exploit the difficulties facing manufacturing for political gain, by trying to blame it on the carbon price, IR laws or lagging productivity. The reality is that last year, when the carbon price came into effect, manufacturing employment fell by 3300 people. In 2011, before the carbon price had begun, it fell by 27,600 people.

I'd remind you that the carbon price has been imposed on less than 300 organisations – a fraction of one per cent of all businesses in Australia. Its impact on inflation has been less than the 0.7 percentage points that Treasury predicted, and more than \$9 billion of industry assistance has been allocated over three years to help industries such as steel, aluminium, and cement manufacturing maintain competitiveness, while providing incentives to invest in clean energy technologies.

And then there are those who want to blame lagging productivity on workplace laws.

As the ACTU and many others have demonstrated, Australia's slower rates of productivity growth over the past two decades are for reasons almost entirely unconnected with labour laws.

- Some of the worst productivity outcomes were recorded during the WorkChoices years.
- In 2012, labour productivity grew by 3.5% - that's the fastest in over a decade.
- The average in the past decade was 1.2% per annum.

Over the long run, the rate of productivity growth is most affected by investment in skills, infrastructure, innovation and R&D, as well as things like better management skills.

What we won't support are attempts to hijack the productivity concept and use it as smokescreen for undermining workers' pay and conditions.

## **2. Industrial relations**

You've heard this morning from both the Government and the Opposition, but I have to admit that I'm glad I wasn't holding my breath to hear anything substantive come out of the mouth of Eric Abetz.

Once again ideology wins the day. All he is interested in is attacking unions with rhetoric about so-called "slush funds" with no policy substance.

He's more focussed on creating an environment of conflict rather than collaboration.

It's over a month now since Tony Abbott promised the release of the Coalition's IR policy was imminent, but it's yet to see the light of day.

But let me take a not-so-wild stab in the dark. We know that it will reintroduce a form of individual arrangements that undermine collective bargaining; it will allow employers to make Greenfields agreements with themselves; it will weaken unfair dismissal laws; it will reduce, if not eliminate, penalty rates; and it will seek to restrict unions from representing their members.

Tony Abbott has declared WorkChoices "dead, buried and cremated", but based on what we already know, he is planning to resurrect it, rebrand it and reimpose it on the working community.

There is no economic case for any of these proposals; it is pure and simple ideology.

When you ask us what are the views and priorities of the union movement, the first point that has to be made is that despite claims to the contrary, the Fair Work Act has not had a negative effect on the Australian economy.

The economy has in general prospered under Fair Work Act. Especially when compared to other developed countries, we have low unemployment of about 5%, resilient economic growth close to trend while much of the world around us has been negative or sluggish, steady wages and last year recorded the best labour productivity growth in a decade at 3.5%.

The Fair Work Act has not led to a 'wages breakout'. This myth has recently been comprehensively debunked in the ACTU research paper '*A Shrinking Slice of the Pie*'. The paper tells the story about the distribution of the gains from productivity growth in Australia. It shows that Australia has experienced the opposite of a 'wages breakout' since 2000.

Over this period Australian real wages have not kept pace with productivity growth - meaning that labour's share of total income has fallen and profit's share has risen.

In each of the past four financial years, the wages share of national income has been lower than at any time since the 1960s. The profits share, by contrast, reached a record high of 39.6% in 2008-09, and in the most recent year was 38.1%, higher than in any year between 1960 and 2009.

We've also seen a widening gap between average earnings and those on minimum Award wages. Since 2005, the National Minimum Wage has fallen in real terms, while real average earnings have increased by 12%.

That's why unions are seeking to make inroads into that gap with this year's claim for a \$30 a week increase to the National Minimum Wage. This is not just an equity issue; putting more money into the pockets of the low-paid will see that money spent in the shops of every suburb and town in Australia, and as such is an important stimulus to domestic demand.

We haven't seen an explosion of industrial anarchy/disputes. Each quarter since the Fair Work Act came into effect, there has been an average of 5.1 working days lost to disputes per 1000 workers. Over the life of the Howard Government, the average was 13.7.

Unions did not call for any major changes in last year's review of the Fair Work Act.

We have welcomed the adoption by the Government of some modifications to the Act, including:

- an expanded right to request flexible working arrangements;
- better consultation over changes to working hours;
- recognition in Modern Awards of the importance of penalty rates as compensation for working unsociable hours;
- changes to right of entry to allow meetings in lunchrooms;
- a process to use the Fair Work Commission to issue orders to stop bullying;
- the ability to access arbitration in certain circumstances.

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I've been coming to this conference for about five years now, and every year I end up talking about Cochlear.

Workers at Cochlear – represented by my old union, the AMWU – have been engaged in an epic struggle to negotiate a collective agreement with the company since 2007, and they're not much closer than when they started.

This failure of our laws to effectively deal with Cochlear-style protracted bargaining disputes - caused by recalcitrant employers simply refusing to negotiate in good faith and enter into collective agreements with their workers - is an outstanding issue for us.

And now we find that another medical equipment manufacturer, ResMed, is pursuing the same tactics of refusing to bargain in good faith and recognise the right of the workers to be represented collectively by their union.

It is no coincidence that Cochlear's CEO, Chris Roberts, is also on the board of ResMed.

Now let's contrast this situation with the readiness with which the Act intervenes on the side of employers where workers are in a strong bargaining position.

For workers that are unionised and can take effective protected industrial action, the current rules for stopping industrial action often save the employer from having to make concessions and agree to terms. This was demonstrated in the Qantas dispute in late 2011. In the face of low-level industrial action by three unions, Qantas grounded its fleet and proposed a lockout of employees.

A CEO holding the economy to ransom by grounding an airline to access arbitration tells us that something is wrong with our IR system.

There may be some extreme elements in the business community that will run around screaming blue murder that unions want to re-introduce compulsory arbitration across the board.

We accept that arbitration is a double-edged sword and should only be used in certain circumstances.

However, there is something fundamentally lopsided and unfair about a situation where big companies like Qantas can force their way into getting arbitration when they want, while vulnerable workers can't access arbitration in the Commission after literally years of bargaining in good faith for a collective agreement.

We will continue to lobby the government to adopt a more balanced role for intervention in bargaining disputes, particularly through providing greater power for the Commission to arbitrate intractable bargaining disputes. We fully expect the Government and the Minister Bill Shorten to deliver, as announced, this important improvement to our laws.

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One area in which we believe there are significant shortcomings in Australia's employment laws is in the area of insecure work.

Two weeks ago, the Productivity Commission released a report into forms of work in Australia which confirmed once again that we have one of the highest rates of temporary or casualised work in the developed world.

It said that more than two million Australians are employed as casuals. This is not news to the union movement.

We have the second highest rate of temporary work in the OECD, behind Chile.

Most concerning is that despite a period of almost unprecedented economic prosperity of the past 10 years, the casual workforce has not dropped below two million people.

The growth of insecure work has been the outcome of both labour market deregulation and the emergence of a business model across the entire economy that shifts the risks associated with work from the employer to the employee, and minimises labour costs at the expense of job quality.

Yet, we continue to have a system of employment rights and protections which is based overwhelmingly on the notion of a full time worker engaged in ongoing employment. The realities of our labour market are that work is more insecure for more people.

Today many workers simply miss out on basic entitlements because they don't spend long enough in one job, or are engaged in types of work that don't provide access to these entitlements at all (such as casual, contract, temporary, labour hire or permanent casual).

We used to be a nation that prided itself on the 40 hour week, four weeks of annual leave, and paid sick leave. But that is no longer the situation for the 40% of employees in insecure work who do not have access to those entitlements.

We now have a new generation of workers that don't get access to any paid leave entitlements. I'm sure many of you here have children working in retail or hospitality who don't know what penalty rates are, let alone annual leave or sick leave.

We believe that *all* workers, regardless of the way in which they are engaged, should have decent, secure jobs and control over their working lives.

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The drivers of insecure work are complex and there is no one single solution or remedy. But we believe a number of key reforms are needed to begin to address the issue.

*First*, a basic protection against the growth in insecure jobs is ensuring that non-standard forms of work – casual and fixed-term employment, labour hire and contracting – are only used for genuine and legitimate purposes. Measures must be in place to ensure these types of work cannot be abused as a means of avoiding responsibilities under our labour laws. This includes implementing stronger protections against sham contracting to ensure vulnerable workers are protected.

A *second* area of reform is strengthening the right to request flexible working arrangements in the Fair Work Act. We know that without real choices to accommodate their responsibilities, many carers today (mostly women) are forced out of decent jobs in to low paid, low skilled, insecure part-time work.

The current right to request flexible working arrangements is still not enforceable when an employer simply refuses on 'reasonable business grounds'.

Employees must have the right to appeal an employer's unreasonable refusal of their request for family friendly work arrangements in Fair Work Commission, including access to dispute resolution if necessary.

*Third*, the dramatic shifts we've witnessed in how we work and in the structure of our labour market also raise questions over the effectiveness of our traditional accrual models of leave entitlements.

Paid leave entitlements are fundamental to the financial and social security of workers. Yet we continue to have a system where those entitlements are only available to those in permanent, ongoing employment and so exclude a significant proportion of the workforce.

The ACTU is currently investigating models for a nationwide national portable leave scheme, so as to ensure that more workers can access basic paid leave entitlements.

Once the modelling and costings have been done, we are keen to engage with you on how we move forward with such a scheme.

Fourth, Australian unions are also committed to pursuing better protections for workers engaged through labour hire arrangements.

Many of these workers are engaged in triangular employment relationships, whereby they are formally 'employed' by a labour hire firm but work on a daily basis under the direction and control of a single client business.

In practice, this often means that a business can absolve itself of the responsibilities and risks associated with employing a worker by engaging them through a labour hire agency. For workers, this means that they may not have any recourse against the company for which they work on a daily basis for any unfair treatment, or unpaid wages or entitlements.

The doctrine of joint employment – which exists in a number of overseas jurisdictions and in our own OHS laws – recognises the basic principle that, where two or more entities exercise substantial control over the terms and conditions of employment of a worker, both should bear legal responsibility.

The ACTU believes there is merit in amending the Fair Work Act so as to enable the Commission to determine that where two or more are controlling or benefiting from employees' work arrangements, a joint employment relationship exists.

There also needs to be an effective licensing system to regulate labour hire, so we can drive out the shonky operators working out of the back of their van and a post office box.

### **3. The relationship between unions and the Ai Group**

I have outlined the challenges facing the manufacturing sector and explained to you our position on a number of IR issues, and would like to conclude by talking about the relationship between our two organisations

I am pleased to say that over the last five years there has been constructive engagement between the union movement and the AiG. As opposed to what happened between 1996 and 2007, when I understand considerable pressure – for purely ideological reasons – was exerted by the Coalition Government upon employers to disengage from unions. And I'm sure many of you now look back on that period with regret.

That mistake should never be made again, and led to a decade of missed opportunities to strengthen our economy which we have both been working hard to make up for.

We now have constructive engagement and collaboration between unions and the Ai Group through the PM's Manufacturing Taskforce, various innovation councils, and now the manufacturing leadership group.

This spirit of collaboration over the issues where we share a common cause benefits all of our collective members.

I'd remind you that governments come and go as part of the political cycle, but industry and unions must continually engage regardless of who is in power.

The Australian trade union movement is one of the biggest supporters of our manufacturing industry, and we want to work constructively to ensure it has a future.

Neither of us should let blind ideology hijack our manufacturing industry. And I now know, and I am confident based on past experience, that the “i” in AiG will always be there for “Industry” and not “Ideology”.

Thank you.

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