

APRIL 14, 2015

The Australian Government Productivity Commission

ENQUIRY – WORKPLACE RELATIONS FRAMEWORK

Dear Sir,

My company works in the area of small business. It provides payroll and roster systems to its clients, and I offer consulting to SME's.

Our experience indicates that there is a continual deregulation of the business environment, which the business' themselves find very challenging. But there is continued regulation of the labour and tax environments, which small business in particular find very challenging. There needs to be an equilibrium. You cannot deregulate one area and not another, and Australia as a country cannot expect to compete when regulations on both sides of the equation are being dealt with by its trade competitors.

Overcoming the issue of penalty rates for workers I believe is relatively straight forward, and it doesn't come at the expense of a worker working hours he doesn't want to, but it does give flexibility to the business owner to manage his labour hours in a manner that suits the needs of his clients, and allows him to make a profit.

Another point I would like to make, again because it seems to get lost in the argument. Business owners generally risk everything when going into business, usually the family home and other personal assets. A worker risks nothing, and there doesn't seem to be any reward for the business owner for the risk he is taking. I have seen many SME's in my time as a Bank Manager operate where the workers get more money than the owners, have no risk, and do not work the hours the owners work. Again there has to be a balance and a return, or we will simply stifle entrepreneurship.

In my opinion the ATO and Government are one of the biggest contributors to small business failure, as small business is burdened with so much red tape, that the "Entry" into business is high in cost and complex in nature. Many SME's are employees entering business with good knowledge of their trade, but ignorant of the regulations and requirements of managing a business. It is only when they are in the business and (generally too late) they find they are in trouble because of this lack of awareness. SME's do not have the wherewithal get themselves out of trouble. My business in particular deals with getting small businesses out of trouble and putting disciplines into place to save and grow their businesses (and save their family home, marriage etc.). However the ATO have absolutely no skills whatsoever in this area, and are only interested in closing businesses down and writing off a debt, rather than reconstruct a business and recover the outstanding debt, usually Superannuation and PAYG. I too have a solution for that, but I think falls outside the parameters of your current enquiry.

The proposal I would like to make, is remove the paradigm of the week, where Saturday and Sunday are the weekend. Weekends went out years ago, with deregulated trading hours, fly in fly out shifts, the growth in the tourism sector etc. You even hold weddings during the week rather than the traditional weekend. To counteract it to a greater degree nowadays, SME's use casual workers, employment agencies, or contractors (and then find themselves in a sham contracting situation). Simply

allow the worker to choose their preferred days of engagement but their days off has to be in 2 day blocks. A 2 day break ensures there is still time for family, resting and being able to do the things you do not get time to do.

By having preferred hours, workers can choose when they want to work, and so there is no need for a penalty for hours that are "Not Sociable". However if an employer requests a worker to work outside those hours (e.g. replacing somebody on holidays, sicknesses, busy period) then outside those hours would attract the same penalty rates that apply now.

From an employer's perspective, they could engage workers with the preferred hours in mind. This has an advantage of reducing the cost, (which is what this argument is about) but they are more likely to attract the people they want and have less absenteeism, because people are working the hours they choose.

At the moment the Unions argue that people should be rewarded for working unsociable hours. But flexibility in the workforce can mean that unsociable hours will not occur, because the worker is choosing what they deem as sociable. I am also of the opinion under this method and in time to come a less "Casual Workforce" will appear than what is occurring at the moment, making it difficult for workers to get Bank finance etc., because they do not have a permanent job. If they chose for instance hours outside what was "normal 9-5", it could be done on a permanent basis, and without penalty to the employer.

Furthermore I believe that once a restructuring as explained above takes place, demand for positions will be determined by the need of the industry and the times required. (But still giving a worker choice, and permanency). The employers could, over time have to pay a higher base rate to workers for different time slots, because demand for labour is outstripped by supply. The business if need be could charge higher rates to its clients during that period of high demand to counteract the higher labour cost, and try to push demand into other time slots. By doing it this way, you are genuinely meeting the needs of industry, the needs of the worker, and I believe in the long-term arrest the growth of the casual employment that exists now.

From a country's perspective, you are putting in a system where labour is meeting demand, but not at the cost of "Unsociable Hours", and with a view of a permanent and stable workforce. It allows the country to align its workforce to become internationally competitive, but still rewards workers who are willing to do overtime or work outside their preferred hours.

Finally, I would like to talk about superannuation and PAYG. I am not sure if this falls into this enquiry, but for SME's this is a huge burden. But I need to raise it, as this is generally the root cause of a SME going under. They lack working capital, and use the ATO money and the workers superannuation for working capital.

The ATO should insist ANY business must submit PAYG and Superannuation at the time of paying their worker. The reason I propose this, is it stops Super and PAYG getting mixed up in a businesses cashflow, and puts a financial discipline on a business from day one. If cashflow becomes an issue, they can see their Bank very early, rather than use ATO and worker funding. (then when that has been exhausted, they cannot get funding from a Bank as they owe the ATO money) Generally in these circumstances they go under, and the ATO and the workers lose funds that were directed to them, and the business person has a tendency to lose everything including the house and marriage. Superannuation should be dealt with by the ATO not the business. When a Tax Declaration is handed to an employer, the superannuation fund details should be submitted to the ATO at the same time. When a payroll is done, the PAYG and the Superannuation is forwarded to the ATO, and the ATO clear the funds to the superfunds. If a worker changes his super fund, then he submits a new tax declaration, just as if he were applying for a change in his Tax Rate. This would alleviate the need for default funds, and open it to the market, take away the management impost for the employer, remove the need for the employer to have to offer choice, a clearing house, and streamline the transfer of money as the superfunds are only dealing with the ATO. I am also firmly of the belief it would cut the amount of unclaimed monies to 0, because the ATO would know who the money belonged to by virtue of their TFN. The worker could then be contacted by the ATO to seek superfund details. (This could be contracted out to companies on a tender basis)

In my company I see it all the time, particularly in low paid jobs where workers are confused about superannuation, they do not know their details, and so are put into a default fund. (they are given choice, but if you do not know how to execute that choice it is of little use). Consequently workers end up with a myriad of funds being chewed up in fees. They do not seek financial advice, because in the greater scheme of things financial advisors are not interested in this area of the market. It is simply not cost effective. But if not addressed, it will leave a longer term problem for the welfare system when these people retire, and further reduce the countries competitiveness due to the cost of maintaining such a system

Yours sincerely

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GENERAL MANAGER