

Personal Submission
to the
2015 Productivity Commission Inquiry into Workplace Relations
From Peter S Wilson AM
5th March, 2015

Dear Commissioners Harris and Scott,

I am pleased to make a personal submission to the Commission's 2015 Inquiry into Workplace Relations.

My submission is to lodge the 22nd Kingsley Laffer Memorial Lecture, which I delivered to members, alumni and faculty of the Sydney Business School at Sydney University, in late November 2014.

Whilst I hold a number of business, community and not for profit board roles, this submission is made in a personal capacity and is in no way to be attributed to any one of those organizations. This caveat was also made explicitly when I delivered the 2014 Laffer lecture. Nevertheless its content is informed by all of the roles and experiences I have had as a company executive and board director over the last 25 years, including as the Group HR Executive at Amcor for eight years (1998-05 inclusive) and ANZ Bank for two years (1996-7). With respect to one of my current roles as Chairman of the Australian Human Resources Institute, that organization is lodging a separate submission to this Inquiry. It will be based on survey results taken recently from amongst AHRI's 20,000 national professional members.

The link to explain the background and history of the Kingsley Laffer Memorial Lecture is provided herewith

http://sydney.edu.au/business/wos/laffer_lecture

and to the 22nd lecture as follows

http://sydney.edu.au/business/wos/laffer_lecture/2014

and the lecture itself;

http://sydney.edu.au/business/_data/assets/pdf_file/0005/218678/Notes_Laffer_Lecture_2014.pdf

My reasons for making this submission of a public lecture are as follows

The Commission has a broad ranging Terms of Reference (TOR) to consider issues of

1. unemployment, underemployment and job creation
2. fair and equitable pay and conditions for employees, including the maintenance of a relevant safety net
3. small businesses
4. productivity, competitiveness and business investment
5. the ability of business and the labour market to respond appropriately to changing economic conditions patterns of engagement in the labour market
6. the ability for employers to flexibly manage and engage with their employees
7. barriers to bargaining
8. red tape and the compliance burden for employers
9. industrial conflict and days lost due to industrial action
10. appropriate scope for independent contracting

I was heartened to further read the five issues papers released by the Commission, which indicated a broad ranging and comprehensive examination of workplace relations issues will be undertaken, and not just a piecemeal review or cursory health check of existing industrial relations practices.

The main impact of my Lecture is upon above Terms of Reference 1,2,4,5,6,7 and 8. It is fair to say a 22 page footnoted 2,300 word lecture is only going to touch briefly on some key matters related to such a comprehensive TOR, but a number of them materially confront and challenge current principles and practices of our workplace relations legal and policy framework.

In summary the key points from my lecture that I believe relate to the Commissions TOR are summarized as follows

1. The world is a significantly more competitive and interconnected place than it was in the last millennium (pp 3-5 of my lecture). Therefore national public policy interventions in any marketplace, and more especially our labour markets, need to be re-assessed within this new globally competitive context for their impact on income and employment growth, as well as equity in worker treatment and fairness of income distribution. As a modern developed economy and a fair and compassionate society, I believe we must adhere to minimum acceptable standards for conduct, performance and reward in our workplaces, but many of our traditional approaches, processes and constraints have a higher cost and place suboptimal impacts on this country in such a world, and should be assessed with a different lens to that used to

prepare our industrial laws in the 1980s and early 1990s, which remain with us today.

2. We are moving into a new world (pp 5-10 of my lecture) where our workforce will cover
 - a. Much higher female participation rates in full and part time work
 - b. Five different age generations – from traditionalists, baby boomers, and Gen X,Y and Z.
 - c. Many different multi –cultural groups
 - d. A diverse range of other social groups – eg LGBTI, indigenous, workers with disabilities, older workers

In my experience, the vast majority of these groups – whether that be women engaged in flexible part time or fulltime work, Gen X, Y, and Z workers, or many cultural groups from outside our traditional Anglo Saxon norms – all seek a workplace system based on more flexible and less prescriptive rules. In this environment we need to move away from a post war labour market model devised primarily around the needs of full time male Caucasian traditionalists and baby boomers from the 1960's and 1970's.

Having regard to this new workplace profile, there is a need for a new system driven by

- simple and clear principles and practices,
- more flexible agreement forms involving a mix of - certified agreements that may involve a union, or not, and access to individual agreements
- minimum standards that can be assessed holistically by any worker or by an arms length authority, and not in an ambiguous or piecemeal way,
- transparent and consistent processes by FWC or its successor body to establish the primary workplace instruments eg modern awards
- protection from coercion by a third party to engage in a practice or instrument they don't sign up willingly for;
- one which devolves flexibility and autonomy for these new workplaces to 'make their own arrangements' as best suits their own needs and preferences.
- Provision for a workplace appeal process, at arms length from the primary policy making institution

I agree with Bray and Stewart in their article cited on page 2 of my lecture that the current Fair Work Act has taken us back to the early nineties. Accordingly it doesn't make us 'ready, nor fit for purpose' into and beyond the second decade of this new millennium of global change and competition.

3. In a global workplace performance and flexibility index prepared by the Economist Intelligence Unit (EIU) in 2012, Australia's rankings for economic regulation and performance were 19 and 34 respectively, amongst 51 countries. I was on the Steering Committee for this international benchmarking study. Essentially the EIU surveyed a range of economic and social indicators across 51 countries and selected a set of 'representative benchmark indicators for this index', each of which was highly correlated to other indices of economic performance and potential for each country but not all of which were universally available. On that statistical basis, the evidence is that Australia's economic regulation underperforms, and a key component here is Australia's Fair Work System. This conclusion underpins my points made in paragraphs 1 and 2 above.
4. Our nation's modern worker mindset (pp12 -13) is quite different to that from the last millennium and its one that – expects rapid change, and can adjust effectively and efficiently when needed, and expects to be able to do so without undue interference. Critical aspects of our current fair work laws impede both that need and desire eg
 - a. transmission of business,
 - b. modern awards like the one for the education sector (see pp 5, 13-14 of my lecture),
 - c. the use of simple majority voting to keep an enterprise agreement to be one involving a union, whether or not that is the most flexible and appropriate for the time for various subsets of the one workforce.
 - d. Many of the bureaucratic processes of the FWC, and their relationships to the courts system and other policy making bodies and best practices

I am also pleased to make myself available at a mutually convenient date and time to discuss this submission and any related matter, including to appear at a future Commission hearing.

Peter S Wilson AM