Submission to the Productivity Commission Inquiry into Paid Maternity, Paternity, and Parental Leave

30 May 2008

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Executive summary

- This is the Centre for Independent Studies' (CIS) submission to the Productivity Commission inquiry into paid maternity, paternity, and parental leave.

- The CIS is Australasia's leading public policy think tank. CIS has published a significant body of work on family policy.

- The key objectives for family policy should be the health and welfare of the child, parental choice (especially about how to balance work and family), horizontal equity between families with children and those without, and benefit and concession neutrality between parents in paid work and those at home.

- The community should help parents meet the cost of raising children by allowing them to pay less tax than childless people. This system is more efficient than cash payments, and allows people more freedom to spend their own money as they wish.

- Many submissions call for taxpayer-funded maternity leave. If such a scheme is considered, certain equitable requirements would need to be met, certain difficulties confronted, and some options considered. They include the following:

    - It must be neutral between working and non-working mothers, and its receipt should not be tied to work requirements.

    - Most countries with generous periods of paid maternity and parental leave have social insurance systems; they are not funded out of general revenue.

    - Compulsory employer contributions or a levy on employers should be ruled out.

    - Demand for more generous leave will increase once the principle is enshrined in law. Consideration should be given to how longer periods of paid parental leave will be funded without the size of the taxpayer-funded scheme growing.

- Self-funded schemes are appropriate for longer periods of paid parental leave. Australians are already used to self-funding much of their welfare through HECS, private health insurance and superannuation

    - Superannuation-style savings accounts are in use around the world, and could be used to fund parental leave. Contributions can be tax-privileged to encourage saving and low-income individuals could even be eligible for other incentives. Contributions could be pooled between partners.

    - Insurance schemes fund paid maternity leave in several US states. In Australia, the 'WorkCover' model could be amended to provide for such a scheme

    - HECS-style income-contingent loans are equitable because individuals can opt in or opt out. Because repayment is contingent on future earnings, they are available to low-income families. Repayments could be shared between partners.

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CIS work on family policy

The Centre for Independent Studies (CIS) has published a significant body of work on family policy. Lucy Sullivan argued in 2001 that the system of supports for families with dependent children had been eroded over the previous generation. She noted an increasing horizontal inequity; as tax breaks for families were reduced, the financial position of parents with dependent children became significantly diminished compared to their childless peers.[i]

In 2002, the CIS' Barry Maley published *Families, Fertility and Maternity Leave*, which explored some of the specific policy objectives being put forward in favour of paid maternity leave. Maley argued against using family policy as a tool for 'social engineering,'[ii] designed to either increase fertility, reduce wage inequality between men and women, or increase women's workforce participation.

Maley argued that government-funded paid maternity leave should not be viewed as a work entitlement: the right to return to the same job is already covered by existing unpaid leave legislation. If individual employers see that there is a benefit in providing paid maternity leave to employees, they will do so voluntarily.

Making paid maternity leave a purely 'work'-related benefit excludes mothers who wish to take a longer period of time out of the workforce or are already out of the workforce (for example, due to having another child). A policy that benefits a select group of mothers reduces choice rather than enhancing it.

Instead, the real problem that paid maternity leave is trying to solve is the cost of having children. Maley proposes that the existing system of family benefits be replaced by a single, universal tax credit that recognises the cost of children.[iii] Barry Maley and Peter Saunders later argued in 2006 for the establishment of higher tax-free thresholds for families with children, in recognition of the cost of children.[iv]

CIS research has also looked at the importance of reducing the 'churn' in the current tax-transfer and family benefits systems. Reducing personal tax so people can provide more for themselves:

- is more efficient
- is simpler, and doesn't favour one group over another
- allows individuals greater choice about how to spend their money

Recognising that children are a 'public' as well as private good, the most effective and efficient way for society as a whole to contribute to the cost of children is by allowing parents of dependent children to pay less tax. An overhaul of the whole system of family benefits is required.

The key objectives for family policy should be:

- health and welfare of children
- parental choice (especially about how to balance work and family)
- horizontal equity between families with children and those without
- benefit and concession neutrality between parents, whether they are in work or at home

Paid maternity leave is positive if it increases the health and welfare of mothers and babies, increases mothers' choice about whether and when to recommence work, and promotes horizontal equity. Where possible, families should be compensated through the tax system, rather than through cash payments.

Current inquiry into paid maternity leave

Many submissions to this inquiry call for taxpayer funding (cash benefits to working mothers) or employer contributions,[v] so it is possible that a taxpayer-funded maternity scheme will emerge. If such a scheme were to be introduced, certain equitable requirements would need to be met, certain difficulties confronted, and some options considered. The following subsections examine these options.

Universality and means testing of family benefits

Concurrent to the public debate about paid maternity leave has been an examination of the future of universal welfare payments in Australia. The Rudd government has signalled that it favours means testing these payments, and has already imposed income tests on the Baby Bonus and Family Tax Benefit B.[vi]

Means testing existing family benefits, and then introducing a universal (or near-universal) taxpayer-funded paid maternity leave scheme shows an inconsistency of both principles and policy.

The previous federal government introduced the Baby Bonus as a birth grant to all parents, ostensibly aimed at increasing fertility rates.[vii] It has been constantly criticised on the grounds that it is expensive, inefficient, and doesn't have a clear policy objective.[viii] A Newspoll survey published in May 2008 showed that 65% of voters favoured means testing of the Baby Bonus.[ix]

The Baby Bonus has evolved to offset lost income while on unpaid maternity leave. FaHCSIA's 2008–09 Budget Statement says that the Baby Bonus 'recognises the extra costs associated with birth or adoption of a child, including the loss of income while on unpaid maternity leave.'[x] It seems likely the government intends the Baby Bonus to evolve into paid maternity leave.

The introduction of a universal (or near-universal) taxpayer-funded maternity leave scheme will not fix the problems with the Baby Bonus. Even if maternity leave is paid through the employer, if it is funded by the taxpayer it will essentially involve abolishing one cash payment to create another in its place.

If paid maternity leave is targeted at households earning less than $75,000 in the first six months after the baby's birth, as the Baby Bonus will be from 2009, it will still be paid to 97% of families.[xi] Clear policy objectives will need to be established: is the payment designed to recognise the costs associated with the birth of a child, or to provide a safety net for low-income families?

Neutrality between working and non-working mothers

Family policy should be based on the principle of neutrality. Parents should be free to choose whether both parents work, or one parent stays at home (whether permanently or for a period of time). Directing benefits at working mothers increases the opportunity cost of taking longer periods of time out of the workforce, and implicitly favours two-earner households.

Sociologist Catherine Hakim argues that many women work only out of financial necessity, and would prefer to stay at home if given the choice.[xii] This is confirmed by a recent survey of Australian parents, which finds that two in three would stay home to look after their children if they could afford it.[xiii]

All family benefits should be directed at all families equally, whether one or both parents are in the workforce. Taxpayer-funded benefits are designed to recognise the cost of children and reward parents for their care work. One group should not be rewarded over another.

If any taxpayer-funded maternity leave scheme is introduced, it should be available to all mothers, and not tied to work requirements.

International comparisons

The often-quoted statistic that Australia is one of only two countries in the OECD without paid maternity leave ignores the wider picture. Australia's total spending on family benefits is well above the OECD average. Australia already has the second largest spending on cash benefits to families (as a percentage of GDP) in the OECD, after Luxembourg.[xiv]

Most OECD countries fund paid maternity leave through social insurance schemes, not from general revenue. Rather than paid maternity leave being a universal welfare payment, individuals draw a benefit based on their past contributions. Social insurance schemes fund paid maternity leave in countries such as Canada, Finland, France, Italy, and the Netherlands.[xv]

Because of their contributory nature, these schemes are able to provide generous periods of maternity, paternity, and parental leave at near wage replacement. Using general revenue to fund such generous schemes would be inappropriate, and would actually be regressive if payments were linked to income.

Employer contributions

Of women who took maternity leave in 2005, 37% used paid maternity leave provided by their employer.[xvi] Introducing taxpayer-funded leave would discourage employers from providing paid maternity leave, leading to deadweight losses in the economy. [xvii]

Paid maternity leave should not be funded by compulsory employer contributions or a levy on employers. There are persuasive arguments against compelling employers to contribute to paid maternity leave. Rebecca Edwards found that women who are eligible for employer-funded maternity leave have lower wages than women in comparable jobs that don't have paid maternity leave.[xviii] While the relationship between wages and employment conditions is complex, this may suggest that universal *employer*-funded maternity leave would push women's wages down and increase the gender wage gap. There is also the possibility that employers will discriminate against women when hiring. Levies imposed on all businesses will ultimately be absorbed by all employees' wages,[xix] and will increase the cost of doing business.

A significant number of Australian workplaces provide paid maternity leave for their staff. Employers who provide paid maternity leave claim it helps them attract and retain high-calibre staff, boost morale, and reduce absenteeism.[xx] In a tight labour market, offering extra benefits such as this can give employers an edge over their competitors.

A universal scheme should not exclude employers from providing this type of benefit. It must be assumed that if a taxpayer-funded scheme is introduced, some employers who currently offer paid maternity leave will stop providing it, transferring a cost that is now borne by business to the taxpayer.[xxi]

Arguments about workforce participation obscure the real objective of family policy: to provide for the health and welfare of children and allow parental choice. If there are demonstrable gains to business and industry from providing paid maternity leave, businesses will choose to do so voluntarily, as many already are.

Cost to taxpayers

The arguments about how to design family policy rest on one central question: how much of the cost should be borne by society as a whole, and how much should be borne by individual parents?

Nancy Folbre argues that children are public as well as private goods, and the community should bear some of the cost involved in raising them.[xxii] The question is, to what degree?

International experience shows that once paid maternity leave is introduced, it will gradually be lengthened,[xxiii] meaning that the expense to the taxpayer will greatly increase. If there is agreement that society as a whole should bear some of the cost of children (possibly including lost income when the child is very young), then the limits must be agreed upon. Where does community responsibility end?

While there are positive externalities, having children is fundamentally a personal choice. Parents must bear the ultimate responsibility for their children.

The existing system of family benefits could be largely reworked to fund a 'minimalist' system of paid maternity leave. The current Baby Bonus could be rolled into such a scheme, and would make up much of the cost.

However, any taxpayer-funded scheme will face immediate pressure for it to be lengthened and increased. **A limit to taxpayer funding must be set. This raises a second issue: how can longer periods of parental leave be funded?**

Alternative funding arrangements for longer periods of parental leave

A self-funded scheme should be developed for longer periods of parental leave. Australians are already used to funding much of the smoothing of their lifetime income through loans, insurance, and savings. HECS, private health insurance, and superannuation are all examples of this.[xxiv]

The ideas set out here represent a starting point for conceiving a paid maternity leave scheme outside the taxpayer- or employer-funded model.

Savings

Savings accounts are widely accepted as a way for individuals to fund their own social security. In Australia, superannuation accounts are the most common example of this, and the federal government has recently announced the introduction of 'Home Saver Accounts.' Savings schemes exist to fund retirement, health, and education costs and unemployment benefits in countries such as the US, UK, Singapore, and Chile. [xxv]

In a savings scheme, individuals are required to keep their personal account at a minimum balance, which needs to be topped up through future earnings if drawn upon. Alternatively, individuals can choose to save more than the required minimum. Contributions (to a ceiling) are tax-privileged, making saving a more attractive proposition. At retirement, unused savings can be rolled into superannuation.

A savings scheme could be used to fund paid maternity leave. Because individuals are drawing from their own savings, they are afforded a high degree of flexibility. They can choose to maintain their fund at the minimum level, or they could choose to build their savings up to fund a longer period of leave, or a benefit that is closer to income replacement level. Savings accounts could fund both maternity and paternity leave, or even other types of leave such as grandparents' leave, or leave when an older child is sick.[xxvi] Unused savings could be used to pay for school fees, put towards the purchase of a house, or rolled into superannuation.

An issue with any self-funded scheme is how to distribute risk evenly across genders. Women alone have the responsibility of childbearing, but men are usually higher income earners. So that women alone do not have to bear the cost of their leave,[xxvii] **partners or family members could be allowed to pool funds or transfer funds between their savings accounts**, meaning the lower-income partner could access the savings of the higher-earning partner. Transfers such as this have proven successful in Singapore.[xxviii] Savings accounts could be split between couples in the advent of separation.

Critics of savings schemes argue that they are appropriate for individuals with average or above-average incomes, but are inequitable for persons with lower-than-average income, as they exacerbate lifetime inequality.[xxix] However, properly designed savings accounts can provide low-income groups with a 'better instrument for smoothing income over time.'[xxx]

Matched savings or incentives directed at low-income individuals or families mean that schemes such as this can actually be progressive and can even have flow-on economic benefits if they allow low income people to roll unused funds into the purchase of a house or superannuation.

In Australia, the government already matches savings for low-income individuals who make voluntary contributions to their superannuation. Singapore, the US, and the UK also provide targeted matched savings and incentives to help low-income people fund their own social security.[xxxi] This could apply to a maternity saving scheme.

The Centre for Independent Studies has previously proposed the establishment of 'Personal Future Funds' for all Australian taxpayers, arguing that the 'Future Fund' be evenly divided into a personal savings account for each Australian, which could form the basis of their own savings to fund their future social security.[xxxii] A scheme such as this could provide all workers with a base amount in their maternity savings account, which could be built upon.

In Australia, the infrastructure for setting up a savings account system already exists. Paid maternity leave savings accounts could be administered through superannuation providers,[xxxiii] or even tied in with the government's proposed Home Saver Accounts.[xxxiv]

Insurance

Social insurance schemes fund maternity leave in many countries including Finland, France, Italy and the Netherlands.[xxxv] In Canada, for example, paid maternity leave is funded through 'Unemployment Insurance.' Female workers can claim a maternity leave payment for 15 weeks at 55% of their income. Parents are then eligible for another 35 weeks of parental leave, which can be split between them.[xxxvi] Because the scheme is funded out of workers' contributions, rather than general revenue, it can afford to be quite generous. Combining paid maternity leave with unemployment insurance makes the scheme more equitable for childless and older workers, who are unlikely to draw maternity benefits but may draw unemployment benefits.[xxxvii]

While this system seems attractive, a government-run scheme of this nature is not necessarily appropriate for Australia. Jackson and Bozic contend that Australia's welfare system is profoundly different to a social insurance system.[xxxviii] Social insurance programs are also often funded by employer contributions, a marked departure from the way social spending is funded in Australia.[xxxix]

There may be other more appropriate ways of organising paid maternity leave insurance in Australia. **In five US states, women can claim paid maternity leave through Temporary Disability Insurance.** This type of insurance provides partial wage replacement if an employee sustains an injury outside the workplace that renders them temporarily unable to work, and has been extended to provide income support for employees on maternity leave.[xl] In California, for example, up to four weeks of partial wage replacement is available before childbirth, and another six weeks after childbirth. Employees can be required to meet the cost of premiums, or employers can choose to pay on their behalf.[xli]

While Temporary Disability Insurance is compulsory, employers may insure through the state-run scheme or through a private insurer. Insurers must adhere to the minimum standards set out by the state.[xlii] A key advantage of this type of scheme is that benefits can be paid through the employer, reinforcing the individual's attachment to that workplace.

In Australia, WorkCover is administered in a similar way. WorkCover insurance is compulsory for employers to cover employees' lost wages, medical and legal costs resulting from workplace accidents or injuries. The scheme operates in different ways from state to state, and in several states private insurance companies administer the system.[xliii] In NSW, private insurers act as 'fund managers.' They must submit a tender to the government to become a WorkCover insurer, and meet the standards set out in the relevant legislation.[xliv]

The WorkCover model could be extended to cover paid maternity leave, mirroring the Temporary Disability Insurance model in the US. WorkCover insurance could cover paid maternity leave, or a separate category of insurance based on the WorkCover model could be established. As with the US scheme, benefits could be extended to other types of leave, such as paternity leave, carers' leave, or extended sick leave, to ensure the system is equitable for all workers.

One potential concern with this model is the equity of the scheme if insurers are allowed to charge actuarial premiums related to the risk profile of particular employers or industries.[xlv] Firms or industries with large numbers of women may face higher premiums and have a disincentive to hire women, and the cost may not be spread fairly across genders. However, as the US scheme demonstrates, premiums and benefits can be pegged to state-defined thresholds, ensuring that individuals or groups of employees are not discriminated against.[xlvi]

Another way to insure for paid maternity leave is to introduce voluntary insurance through private providers. Several insurers in Australia already offer income replacement insurance, which covers loss of income due to accident or illness. Premiums are fully tax-deductible.[xlvii]

This tax-deductibility could be extended to cover insurance for maternity leave. There is, however, a considerable problem of perverse incentive—only those who are likely to become pregnant will insure, pushing the cost of premiums up and the insurers' profitability down.[xlviii] This system is also quite regressive, as it subsidises individuals in higher tax brackets to a greater degree. In addition, a voluntary insurance scheme may be inequitable by forcing women to bear the cost burden alone and pricing low-income individuals out. A compulsory scheme based on the US Temporary Disability Insurance or the WorkCover model would be a more efficient and fair way of providing maternity leave insurance.

Loans

Another potential approach to self-funding for paid maternity leave is through a loan scheme. **'Mortgage-style' bank loans, where a fixed amount needs to be repaid over the life of the loan at market interest rates, could be used to finance paid maternity leave.**[xlix] There are however, several potential problems with this type of loan:

- Family incomes can fluctuate and be difficult to predict when children are young. Parents may be unwilling to take on an inflexible loan that they may have trouble repaying or loan repayments may cause financial stress.[l]
- Low-income families who are likely to default will find it difficult to obtain a loan.[li]
- The loan is made against 'human capital' (future earnings), so there are no assets to guarantee the loan against.[lii]

Bruce Chapman proposes **HECS-style income-contingent loans as an alternative**. This could work in the same way as the current

HECS system, with repayments deferred until earnings reach a threshold and the annual rate of repayment rising as income increases.[liii]

Chapman appeared at the Productivity Commission's inquiry into paid maternity leave in May 2008, to argue in favour of income-contingent loans. His scheme proposed to fund maternity leave at minimum wage levels, with parents being required to pay 20% on top of the original loan, with no additional interest. Parents would be required to repay the loan at a rate of 2% of income after their annual income passed $27,000.[liv]

Nicholas Barr argues that income-contingent loans are 'compatible with the benefit principle, the ability to pay principle and the social insurance principle.'[lv] They are fair because they are ultimately self-funded: while all taxpayers are forced to pay for a government-funded paid maternity leave scheme, individuals can opt in or out of an income-contingent loan. They are also more equitable than mortgage-style loans because they enable low-income families to participate.

Julia Perry is critical of Chapman's proposal on the basis that women alone will bear the cost of paid maternity leave.[lvi] To address this concern, **the scheme would need to be designed so that the burden of repayments falls on both parents**.[lvii] Parents could even opt for the higher-earning partner to take on the whole debt. If a partnership breaks down, outstanding loan amounts would need to be taken into account when calculating child support payments.

Summary of recommendations

- The key objectives of family policy should be the health and welfare of children, parental choice, horizontal equity between families with children and those without, and benefit and concession neutrality between parents in paid work and those at home.

- The community should help parents meet some of the costs of having children. Where possible, this should be achieved through the tax system.

- If a taxpayer-funded maternity leave scheme is considered, certain requirements need to be met:

    - All family benefits should be directed at all families equally, whether one or both parents are in the workforce.

    - If any taxpayer-funded maternity leave scheme is introduced it should be available to all mothers, and not tied to work requirements.

    - Paid maternity leave should not be funded by compulsory employer contributions or a levy on employers.

    - A limit to taxpayer funding must be set. This raises a second issue: how can longer periods of parental leave be funded?

- A self-funded scheme should be developed for longer periods of parental leave.

- A savings scheme could be used to fund paid maternity leave.

- Partners or family members could be allowed to pool funds or transfer funds between their savings accounts.

- Matched savings or incentives directed at low-income individuals or families mean that schemes such as this can actually be progressive.

- In five US states, women can claim paid maternity leave through Temporary Disability Insurance.

- The WorkCover model could be extended to cover paid maternity leave.

- Another way to insure for paid maternity leave is to introduce voluntary insurance through private providers.

- ‘Mortgage-style’ bank loans, where a fixed amount needs to be repaid over the life of the loan at market interest rates, could be used to finance paid maternity leave.

- HECS-style income-contingent loans are an alternative.

- The scheme would need to be designed so that the burden of repayments falls on both parents.

Endnotes

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[xlii] Ellen Mutari and Deborah M. Figart, *Women and the Economy: A Reader* (New York: M.E Sharpe, 2003).
[xliii] Information on various state schemes is available at www.workcover.nsw.gov.au, www.workcover.vic.gov.au, www.workcover.qld.gov.au, and www.workcover.wa.gov.au.
[xliv] Grahame Burton, 'Workers' Compensation in Australia: With Specific Focus on NSW,' *Journal (Australian and New Zealand Institute of Insurance and Finance)* 28:5 (2005), 14–19.
[xlv] In the WorkCover scheme, premiums are charged based on the risk profile of the industry as well as being linked to actual workplace injuries. This system is designed to encourage employers to improve workplace safety. Kevin Purse, 'Workers Compensation Policy in Australia: Best Practice or Lowest Common Denominator?' *Journal of Industrial Relations* 40:2 (1998), 179–203. If this system were applied to paid maternity leave, it would have the effect of encouraging employers to decrease pregnancies among staff, leading to discrimination against the hiring of female employees.
[xlvi] For an analysis of how the Californian parental leave system is based on the premise of equality, see Dirk Larsen, 'The German Parental-leave System as a Model for California: Creating a Race to the Top within a Federal System,' *Hastings International and Comparative Law Review* 29:1 (2005), 71–91.
[xlvii] Australian Tax Office, 'Sickness and Accident Insurance,' www.ato.gov.au/individuals/content.asp?doc=/content/19669.htm.
[xlviii] Gerald P. Koocher and Patricia Keith-Spiegel, *Ethics in Psychology: Professional Standards and Cases*, 3rd ed. (New York: Oxford University Press, 2008), 173.
[xlix] Nicholas Barr, *The Welfare State as Piggy Bank: Information, Risk, Uncertainty and the Role of the State* (Oxford: Oxford University Press, 2001).
[l] Deborah Ralston and April Wright, 'Lending Procedures and the Viability–Social Objectives Conflict in Credit Unions,' *The International Journal of Bank Marketing* 21:6/7 (2003), 304.

[li] Bruce Chapman, 'Conceptual Issues and the Australian Experience with Income Contingent Charges for Higher Education.' *The Economic Journal* 107:442 (1997): 738-51.
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[liii] Chapman, Bruce. 'Conceptual Issues and the Australian Experience with Income Contingent Charges for Higher Education.'
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[lvi] Julia Perry, 'Alternative Sources of Welfare.'
[lvii] For a further critique of this see Joshua S. Gans, *Return to Work Credits: Ideas for Efficient and Equitable Parental Leave Following Child-birth*, Melbourne Business School Centre for Ideas and the Economy IdeaPITCH 2, www.pc.gov.au/__data/assets/pdf_file/0010/79678/sub024.pdf.

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