

November 14<sup>th</sup>, 2008

I would like to make a submission to the Productivity Commission in response to the Public Inquiry into Paid Parental Leave draft report, on two issues, the first is regarding the need for parents of young children to be able to work part-time flexible hours upon return to work, and the second is regarding birth parity and eligibility for subsequent paid parental leave for second and third children.

### **I. Right to Return to Work Part-time**

One of the primary goals of paid parental leave the Productivity Commission has identified is the promotion of women's lifetime workforce attachment. While some women will be motivated to ensure they participate in the workforce pre-birth in order to meet the employment test and receive the benefit of paid parental leave, there is little in the Commission's draft recommendations that will work to help parents accessing parental leave (predominantly women) achieve greater attachment to the workforce post-birth.

Though many mothers must return to work post-birth purely because of their family's economic need, many other women do not return to the workforce for a number of years after having children. This happens for a number of reasons, two of which point to the need for better legislative support for parents as part of the paid parental leave scheme. Firstly, the National Employment Standards (NES) currently only allows the 'right-to-request' one's position be held open for 12 months of unpaid parental leave. Under this situation, any parent who feels their child needs them at home longer than 12 months or whose child is physically, emotionally or socially unready for daycare at 12 months of age (or younger if pregnancy health issues obliged the mother to start unpaid parental leave early), must forfeit their position. This directly weakens the parents' workforce attachment as they then have no job to return to. If the parent does wish to return to the workforce in coming months or years, they must then find a new job. This is made all the more difficult because they now have a significant gap in their resume to explain and (so called) outdated skills. This problem will be somewhat ameliorated if the NES right-to-return after taking unpaid parental leave is extended from 12 months to 24 months, as is likely to happen.

A second reason that parental workforce attachment is weakened in the early years after having children, is the fact that it is difficult to juggle everything that needs to be done when both parents are working full time. When both parents are working full-time, it is very physically and organizationally demanding to run a household, look after children, and do all the background work (washing, ironing, shopping, preparing food, picking up and dropping off children at daycare) that enables parents to participate in paid work. It is hard on both parents and the young children when both parents work full time, and the workload burden tends to fall particularly mothers. Studies show that when women of small children increase their labour market participation, it is not accommodated by reductions in child-care and domestic labour time, but rather, reductions in their leisure time (Folbre, 1984 as cited in Kabeer, 1998). This trend is world-wide. In most countries, women's primary responsibility for household labour and childcare has shown little sign of diminishing with their increased participation in paid work (UN, 1999, section 2.65). For this and many other reasons, women with preschool aged children who can afford to stay home,

often do. Some return to their fulltime jobs, only to find that there just are not enough hours in the day for it to be practically workable to combine working with caring for small children and running a household. These parents currently have few options other than resignation from their position.

Because of the pressures of both parents working fulltime with preschool aged children, many families would prefer for one or both parents to be able to work part-time during the early years of child-rearing in order to balance work, family, household maintenance, and leisure. Another reason why parents prefer to return part time is the fact that they feel a full day in day care is too long for a small child (usually 8 hours plus commuting time of up to 3 hours). Though some (usually those in high-skilled, well-paid occupations) are able to negotiate part-time positions to return to, the vast majority do not have the option of returning to work part-time. Most mothers therefore have an all-or-nothing choice to make; go back to their full time position and become stressed and time-poor, or forfeit their participation in the paid workforce and stay at home. Some may resign and look for casualised or part time work, although there are other structural barriers to this, a point to which I return below.

Legislating the right to return to work part-time and negotiate flexible hours after having children until the child is an appropriate age (such as mid-primary school), would go a long way towards solving this full-time-or-not-at-all choice which undermines parents (particularly mothers) workforce participation post-birth. In my survey of 110 working Australian people of reproductive age in October 2008 (for more details of this survey see my other post-draft submission to the Productivity Commission on 14/11/08), a vast majority flagged the need for a paid parental leave scheme to include the right to return to work part time. The right to work at reduced hours (say a six hour day) or a shorter week (say a four day week) would provide families with the flexibility to juggle productive work outside the home, the fundamentally important nurturing work inside the home, and the oft-forgotten behind-the-scenes work inside the home which props up participation in the paid work. In order to minimize the disruption to businesses of bringing in the right for parents to return part-time, a minimum participation level could be set; 0.75 Effective Full Time (EFT), for example.

I believe such a solution will better enable parents to increase their lifetime attachment to the workforce, and have multiple benefits for families, industries, employers and the overall economy. If both parents were able to access the right to return to work part-time, parents could develop working arrangements that suited both their family and their employer. Different families might take different options depending on their family's circumstances, the needs of their employer, the nature of their industry, and their access to child-care. For example, one parent might work 0.75 EFT, while the other parent works 1.0 EFT, or both might work 0.8 EFT and negotiate with their employer to have alternate days off so their children are only in daycare 3 days per week. Yet another option would be for both to negotiate shorter days and different starting times so that child-care is only needed for 6 hours per day rather than 12. If both parents have the right to request flexible part-time working hours, many families would be able to function well while both parents work, rather than having one parent out of the workforce entirely. The couple's combined paid work hours would be more like 60-68 hours per week, as compared to the single

income family of 38-50 hours per week. The results of such legislation would include: an increase the nation's productivity by increasing the number of parents who return to work post-parental leave; an increase the aggregate number of hours of paid work that each parental couple of young children contributes to the economy; and a reduction in the aggregate number of hours that their young children spend in non-family care through flexible hours which enable shared parental care. This would have child development benefits, as studies have shown that the longer children spend in daycare, the more likely it is to adversely affect their development. There are clearly external benefits to society stemming from better child development outcomes which would flow from the right of parents to return to work part time. The right to request part-time return would also help increase specifically women's attachment to the workforce by making return to work more manageable, and, to the extent that fathers opt to utilize their right to work-part time, promote a better gender balance of work inside and outside the home.

Though the right to return part-time is a very attractive solution identified by many parents, there are many barriers to part-time work in Australia currently, which would need to be addressed concurrently with legislating the right for parents to return to work part-time. One is the fee structure of child-care. Currently day care centers charge parents for a full 12 hours of care whether the child is in care for six hours or 12 hours. This practice effectively means that parents are out of pocket for a full 12 hours of care even if they only need six hours of care, which deters parents from taking part-time work in short shifts, particularly for lower paid workers. As an aside, it also means that childcare centers reap government subsidies for hours well in excess of the actual hours children are in care - the overpayment in subsidies come in the form of both the 'childcare rebate' which is paid directly to the parents based on the total childcare fees paid by the parent (which are calculated at 12 hours of care per day of care used, regardless of the actual hours the child is in care), *and* the 'childcare assistance' which is paid directly to the childcare centre by the government on the parent's behalf for the full 12 hours regardless of the actual number of hours that the child is in care. Another disincentive against part-time work is the welfare and tax structure which heavily penalizes the second earning parent. By the time the cost of child-care, income tax, and lost family tax benefit is calculated, many find that it is hardly economically rational for the second parent to engage in part-time work. These structural barriers reinforce the full-time-or-not-at-all dichotomy that parents face in their decision to return to the workforce. I recommend that the Commission investigate and recommend that the Government address these issues alongside recommending that a 'right-to-return' part-time and request flexible hours is secured.

So many mothers find being housebound and 'unemployed' isolating, while fathers suffer under the pressure to take on long hours to make their sole wage accommodate the family's needs, which comes at the cost of largely missing out on participating in their child's upbringing. Meanwhile dual income families feel resentful that they are subsidising other parents to stay at home with their children (through tax and welfare transfers) as they 'slog their guts out' to work 40 and 50 hours a week and miss out on their own children's childhoods. Most of Australia's family policies have been designed based on a 'nuclear' family model where the father works and mother stays at home, and there is currently little scope in Australia for flexibility or a middle ground, despite the fact that labour markets, gender relations and family structures have changed. The right to work part-time seems like such a sensible solution for all.

The economy will benefit through increased productivity, women will benefit through increased attachment to the workforce post-birth, industries in skill-drought will enjoy the greater number of parents participating in the workforce (having workers at 0.75 EFT in the context of a skills shortage, is better than not having them at all), parents will enjoy greater work/family balance, children will enjoy more time with one or the other of their parents, and fathers will benefit from the opportunity to take up greater involvement in their children's lives. Australia can only benefit from the implementation of policy promoting the right of both parents to work part-time and flexible hours during their child's preschool and early school years. Best of all, such a policy involves minimal taxpayer cost to implement.

**The right for both parents to return to work part-time post-birth is an essential aspect of a paid parental leave scheme for Australia.** It is needed in order to meet the Productivity Commission's objective of women's increased workforce attachment. It will also help meet other objectives that the Commission has set for a paid parental leave scheme, namely gender equity, and normalizing the fact that taking time out of paid work for family duties is a normal part of work and life. If the Rudd Government uses the current global financial crisis as pretext not to introduce the paid parental leave scheme that the Productivity Commission recommends, the very least that should be offered in its place is the legislating the right to return on a part-time basis for both parents post birth. It is the single most cost effective way that the Government can assist working families and promote national productivity.

If the Productivity Commission needs research done on the issue of legislating the right to return to work part-time (such as an inquiry into the effect of offering the right to return to work part-time on parental return-to-work rates and the effect on total hours of productive work by the parental couple), I would be happy to volunteer to conduct such research. I can be contacted on the details submitted in my cover sheet.

## **II. Birth Parity**

In section 2.15 of the Productivity Commission's draft report, under the heading 'Which employees would be eligible' the report states: *"These requirements [to have completed 10 hours of continuous employment for the previous 12 months] would apply to second and later births as well as the first. The paid parental leave period would be counted as 'employment' (as is the case for leave generally), so would not break the employment continuity for qualifying for subsequent paid parental leave"*

This should be amended. **Any period of unpaid parental leave taken within the statutory allowance for unpaid parental leave, taken as supplemental to paid parental leave, must also count as 'employment' so as not to break the employment continuity for qualifying for subsequent paid parental leave.**

Take, for example, a mother who meets the employment test for her first child and receives the 18 weeks paid parental leave, and also finances an extended period of unpaid parental leave through her own personal savings for an additional 36 weeks (having 52 weeks out of the workforce in total). She then returns to the workforce, becomes pregnant again, and leaves the workforce 10 months after her return, in order to birth and care for her second child. Let's call her mother one.

Mother one is taking quite a reasonable course of action with consideration to the Commission's objectives and expectations. The Commission deems 12 months as an appropriate time to take out of the workforce to care for a child, as illustrated by the Commission's advocacy that the right to take up to 12 months unpaid leave per parent and retain job security as per the National Employment Standards (NES), remain in place. Mother one has returned to the workforce and has made a commitment to both workforce attachment and child-bearing. Her return to work after 12 months of leave is within the time frame that the Commission deems appropriate. Yet, despite the congruence of mother one's actions with the Commission's draft report, mother one could be disqualified from eligibility for paid parental leave for her second child, *if the unpaid period of leave she took for the first child is considered a break from the workforce and as a result she is deemed not to have been continuously employed for 12 months prior to the birth of her second child*. I reiterate: if an amendment is not made to consider unpaid period of leave taken within the NES entitlement in addition to the paid periods of leave, as 'continuous employment', mother one will not qualify for paid parental leave for her second child.

On the contrary, if mother two, who also meets the employment test for paid parental leave for her first child, falls pregnant with her second child in the same time frame (that is, she has her second baby 94 weeks after her first), but does not take the extra period of unpaid leave for her first child (instead returning to work 18 weeks after the birth of her first child) she *would* meet the employment test for her second child. This is because mother two would be considered to have been continuously employed for the year prior the birth of her first child, the 18 weeks of paid parental leave and the 76 weeks of employment she undertook post-parental leave.

These two parallel scenarios where the child spacing is exactly the same (18 weeks + 76 weeks = 94 weeks apart) where mother two (who takes no unpaid parental leave for her first child) would receive paid parental leave for her second child but mother one (who takes 36 weeks unpaid parental leave for her first child) would not, demonstrate that the wording of section 2.15 of the Commission's draft report is discriminatory towards parents who choose to supplement the 18 week paid leave period with an unpaid period of leave within their entitlement under the NES.

In another scenario, mother three meets the employment test and takes 18 weeks for her first child, returns to work for the same period as mother one (10 months) after which time her second child is born, a total of 58 weeks after the first child was born. Mother three *would* qualify for the paid parental leave for her second child, because she will be deemed to have been 'continuously employed' for the 12 months prior first birth, 18 weeks of paid parental leave and 10 months of post parental leave workforce participation, which totals 110 weeks prior workforce participation. Mother three's eligibility despite having her children only 58 weeks apart, demonstrates that the Commission has not designed the eligibility policy for subsequent births in order to deter women from spacing their children close in age. **The fact that mother two and mother three would both be eligible but mother one would not, suggests that the draft report's failure to recognize unpaid parental leave taken within the NES entitlement should still be considered 'continuous employment' for the purposes of determining eligibility for subsequent children, is an oversight. I urge the Commission to rectify this oversight.**

However, in case this omission is not an oversight and the definition of ‘employment continuity’ for the purpose of assessing eligibility to access paid parental leave for subsequent children has been deliberately designed this way, I urge the Commission to consider the arguments below and amend the discriminatory wording.

If no amendment is made, the disqualification of eligibility for paid parental leave for subsequent children could happen to any parent who takes unpaid parental leave within the NES entitlement (up to a total of 12 months of paid and unpaid parental leave) for their first child, and also spaces their children any less than 23 months apart. As in, if the mother takes 12 months leave for the first child, and then returns to the workforce for 11 months before having her next child, the spacing of the children will be 23 months. The phenomenon will discontinue if the children are spaced 24 months apart, and the mother has been able to return to the workforce for 12 months, because she will once again qualify for the paid parental leave by way of her 12 month workforce participation between her children. If the NES right to request unpaid parental leave and retain a position to return to is changed from a period of 12 months to 24 months (as is likely to happen), such a phenomenon would apply to any parent who takes the full supplemental unpaid leave and spaces their children any less than 35 months apart.

Neither 23 month gaps between children, nor 35 month gaps between children are unreasonably short, and it is in fact common for families to plan a two to three year age gap between their children. Many people prefer to have their children close in age, for many reasons, one of them being efficiency. If a woman knows she is going to have two years in total out of the workforce to care for two children (one year per child), many consider it better to plan those children close together in age in order to save in childcare costs. During the 12 months leave they take for the second child, they can look after both children at home rather than sending the first child to childcare for that year.

Furthermore, having children close in age helps women to contain the period in their lives where they are not fully active in the workforce and minimize the loss in contacts, networks, promotion opportunities, advancement, etc. that comes with taking parental leave. If children are spaced far apart, one has to go through rebuilding one’s career twice.

Many people will choose to take a period of unpaid parental leave following the paid parental leave period, because babies need 6 months of exclusive breast-feeding and many mothers do not yet feel ready for the demands of full-time work when their infant is just 18 weeks old. The Commission itself acknowledges that 18 weeks of leave is less than ideal for maternal and infant well-being and expects that parents will supplement their paid leave entitlement with unpaid leave.

No parent should be penalized for extending their parental leave on an unpaid basis as long as they return to the workforce within the timeframe outlined in the NES (currently 12 months, likely to be extended to 24 months). Nor should parents feel compelled to return to the workforce before 12 months after their first child is born in order to qualify for paid parental leave for their second child.

Parents must remain free to choose the parity between their pregnancies and children and opt to take unpaid parental leave as supplemental to a short period of paid parental leave and STILL qualify for eligibility for paid parental leave for their subsequent child if they met the employment test prior to undertaking childbearing.

In summary, the Australian Government's paid parental leave scheme must reflect and support the fact that some people choose to have their children close in age, and many people prefer to take longer than 18 weeks out of the workforce after they have a newborn if they can afford to do so. Parents should not be disqualified from receiving paid parental leave for their second child if they prefer a smaller age gap between their children and also choose to extend the period of leave they take for their first child on an unpaid basis as per the NES. Therefore the Productivity Commission should amend the apparent oversight in section 2.15, so that any unpaid leave taken for previous children (up to the NES maximum unpaid parental leave allowance) is considered 'continuous employment' for the purposes of determining eligibility for subsequent paid parental leave.

Sincerely,

Kate McAuslan

#### References:

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