

Department of Employment and Workplace Relations

Submission to the Productivity Commission's Inquiry into Post 2005 Textile, Clothing and Footwear Assistance Arrangements

March 2003

1. Introduction and overview

1. The Government has asked the Productivity Commission to evaluate current assistance arrangements for the textile, clothing and footwear (TCF) sector, to provide policy options for post 2005 assistance and to report on a range of related matters that will affect the sector's long term viability. The terms of reference include an examination of "relevant workplace issues including the more effective use of flexible modes of employment, labour mobility in and out of the sector, especially in regional Australia, and the scope for innovative workplace reform including policy options to improve the competitiveness of the sector".
2. To assist in examining these issues, the PC requested information on a number of specific workplace relations questions. These questions are listed at the end of this section. This submission addresses the PC's questions, or provides information relevant to the questions that the PC can draw on in its broader analysis of these issues and in its discussions with industry representatives.
3. This submission finds that the industry has generally failed to use the options which would allow it to move from the 'one size fits all' workplace arrangements of awards to a more tailored approach to meet the competitive needs of individual businesses. A number of enterprise agreements appear to have an over-representation of provisions that benefit unions at the cost of the business, and hence jobs. This, coupled with an under-representation of workplace relations initiatives to improve flexibility, further erodes the labour productivity and global competitiveness of many TCF businesses. These issues are discussed in section two of the paper.
4. Industrial dispute levels in this industry are lower than those in manufacturing generally, but higher than dispute levels across all industries. The strike rate in Victoria is consistently higher than any other State, with disputes in Victoria accounting for almost 90% of working days lost in the sector.
5. The higher TCF strike rate in 2001 coincided with the Victorian branch of the TCFUA's claim for payment of employee entitlements to a union controlled fund. This disputation is of concern to the Commonwealth. It is costly and unnecessary, as the Government established a program in 2000 which addresses concerns about payment of employee entitlements in cases of business insolvency in a fair and appropriate manner. The cost burden associated with union claims for enhanced redundancy provisions and payments to trust funds is so significant that such claims, if conceded to, would undermine the viability of many businesses. Industrial disputes are also discussed further in section two.
6. The available data would indicate that there has not been any sustained labour productivity improvement in the TCF industry. Average annual wage outcomes in TCF workplace agreements have kept pace with wage outcomes for all industries. Increasing flexibility and reducing costs could assist the industry in raising its productivity and therefore competitiveness. Data related to these issues is provided in section three.
7. The general characteristics of TCF workers, including a predominance of mature aged workers, relatively low education levels and a relatively high proportion of workers from non English speaking backgrounds, present particular challenges in terms of job

mobility. Notwithstanding these characteristics, the mobility of TCF workers has improved in recent years. These issues are covered in section four.

8. Outwork in this industry has grown as a response to the need for flexibilities within the industry. It has made it possible for local operators to continue domestic production and compete in the market. This industry has maintained a number of traditional workplace arrangements. Outwork arrangements, providing for home based work in the production process benefits both employee and employer. Public policy regarding outworker arrangements needs to balance the competitive nature of this industry on a global level against the opportunities it provides for many Australian workers. Increased regulation of the industry would result in more businesses moving their operations offshore. This would in turn lead to job losses for a group of workers whose prospects of employment in other industries may be limited. The Federal Government's current Bill before the Parliament in relation to contract outworkers in Victoria seeks to balance flexibility and regulation so as to protect TCF jobs in Australia. These issues are dealt with in section five.

1.1 Workplace relations questions raised by the PC

9. The PC has requested information in relation to the following questions:
 - (a) Is workplace inflexibility and/or industrial disputation a significant problem for the TCF sector? What are the key concerns in these areas (eg. shift restrictions, demarcation, disputes associated with the protection of employee entitlements)?
 - (b) What gains have been achieved in labour productivity and value added per employee over the past few years? What has happened to rates of pay in the sector over the same period?
 - (c) What are the main impediments to better workplace outcomes (eg. deficiencies in management or workforce skills, workplace culture, an inappropriate industrial relations framework, inadequate training infrastructure)?
 - (d) Do the characteristics of the TCF workforce (eg. skill levels, age profile, ethnicity, gender) hinder labour mobility within the sector and between it and other sectors? What consequences might this have for the long term viability of the sector and to its ability to adjust?
 - (e) What issues and concerns are raised by the use of outworkers (eg. an inadequate information base, exploitation, working conditions)?
 - (f) What impact have legislative (eg the Ethical Clothing Trades ACT in NSW) and voluntary (eg the Homeworkers Code of Practice) initiatives had on outworkers and TCF firms? Are other approaches required?

2. Workplace flexibility and industrial disputation

10. The PC has asked whether workplace inflexibility and/or industrial disputation is a significant problem for the TCF sector. It has asked for the key concerns in these areas, and has listed shift restrictions, demarcation, and disputes associated with the protection of employee entitlements as examples.

2.1 Flexibility

11. The 1997 Industry Commission Report criticised the lack of flexibility in industrial awards which govern conditions in the TCF industry. The report raised concerns regarding the level of prescription on matters such as who could be employed, the times they could work, staff ratios and the limits on particular types of employment.¹
12. Since that review, industry has had time to avail itself of flexibilities available under the *Workplace Relations Act 1996* (the WR Act). The Government's reforms to workplace relations legislation required all awards to be simplified, so that they operate as a safety net and are suited to the efficient performance of work according to the needs of particular enterprises and workplaces. The WR Act also enhanced options for agreement making. Agreements can be individual or collective. Collective agreements can be made with employees directly, or with a union.
13. One way of assessing the extent to which industry has availed itself of the flexibilities available under the WR Act is to examine the uptake of federal certified agreements in this industry, and agreement provisions.

2.1.1 Uptake of federal certified agreements in TCF

14. The success of the TCF industry in negotiating and implementing enterprise agreements remains mixed. Currently only about 16% of TCF employees have their employment conditions determined by a federal certified agreement.² These figures suggest there is significant scope for TCF companies to better utilise the agreement-making options available under the WR Act to improve productivity, be more competitive and have higher paid workers.
15. Despite the trend of decreasing union membership in this sector,³ the majority of certified agreements that are in place have been negotiated under section 170LJ of the WR Act with unions. Agreements negotiated under section 170LK of the WR Act, directly with employees, represented less than 10 percent of all TCF industry agreements, compared with 23.9 percent of agreements across all industries.⁴
16. Only 5% of agreements include provisions specifically permitting AWAs, and 27% specifically exclude the use of AWAs and consequently limit flexibility for both employers and employees. Practical implementation of this provision limits freedom of choice for those employees that seek arrangements to meet their individual needs, and is contrary to the spirit of the freedom of association principles contained in the WR Act.

2.1.2 Features of federal certified agreements in TCF

17. In the PC's previous TCF review, firms reported productivity improvements came from achieving greater flexibility in skills usage (multi-skilling) and work time (shift and overtime arrangements). Companies reported using innovations such as team bonus payments, annualised hours, increased flexibility in weekly hours, upgrading skills, better use of existing skills, improved communications, productivity bonuses and temporary labour provisions.
18. Analysis of federal certified agreements shows that 71% of current TCF agreements contain overtime provisions (see Table 1). This indicates that managing peaks in production is an important issue in this industry. However the way in which this is managed varies. The traditional overtime arrangement has its limitations. It can be administratively complex, is often costly, can inadvertently reward inefficient behaviour, hampers an employee's ability to manage their work/life balance and does not address downturns in demand. Alternatives such as time off in lieu (TOIL), flextime, annualised salary and other innovations can provide more appropriate options which meet the needs of both the business and the employees for managing the cost of overtime. Currently about 24% of TCF agreements include provisions for TOIL, which compares favourably with manufacturing generally. However there is clearly scope for more extensive use of this and other flexible provisions across the industry.
19. The second highest commonly occurring provision is multi-skilling and the flexible deployment of labour (45% of agreements), indicating that flexible use of the skills of employees is quite well utilised. The incidence of this provision compares favourably with that for all manufacturing where provisions for multi-skilling are contained in 40% of agreements and all industries where they occur in 33% of agreements.
20. There is a low incidence of provisions such as benchmarking and quality. However 32% of agreements do refer to 'continuous improvement' which in many respects picks up the issues of quality and good production management.
21. The third most commonly occurring provision is paid leave for trade union training (contained in 43% of agreements). The PC might wish to explore why companies consider that they have a role in carrying the cost of union training and union business and how companies consider this benefits their business, especially when union membership is so low and continuing to fall.
22. The PC might also wish to explore with companies the reasons for limited and/or restricted use of AWA provisions. As mentioned previously only 5% of agreements include provisions specifically permitting AWAs, and 27% specifically exclude the use of AWAs, consequently limiting flexibility for both employers and employees.
23. Ideally firms should seek to incorporate the types of provisions which would facilitate firms' competitiveness. This could include: benchmarking (currently in 8% of TCF agreements); a link between wages and labour productivity (only in 4% of TCF agreements); apprentice or trainee wage provisions (only in 8% of TCF agreements) and shift penalties at ordinary rates.
24. Analysis of family friendly provisions in TCF agreements suggests that there is low incidence of these provisions. For example 8% provide for unpaid family leave, and

2% provide for paid maternity leave. This means that despite a high proportion of women in the TCF workforce just 3% of female employees covered by federally certified agreements in the TCF sector have an entitlement to unpaid parental leave and 5% have an entitlement to paid maternity leave.

25. Flexibility can of course occur on an informal basis. Absence of such arrangements in an agreement does not necessarily mean that flexible arrangements do not exist. However the very low incidence of these factors indicates a failure by management to fully consider and implement arrangements which would assist the firms to be more competitive and productive.

TABLE 1 :Incidence of selected provisions as a proportion of all agreements in the TCF sub-sector, manufacturing sector and all industries

Provisions	TCF Industry % of agts	All Manufacturing % of agts	All Industries % of agts
Flexible/facilitative annual leave	10	10	7
All purpose paid leave	5	3	3
Incentive for reduced absenteeism	11	7	3
Make up time	11	13	6
Overtime	71	54	73
<i>Flexible/facilitative access to overtime</i>	6	3	11
<i>TOIL at ordinary rates for overtime</i>	24	16	10
<i>Overtime cuts in after ordinary span of hours</i>	5	5	4
Mutual agreement to vary public holidays	23	11	8
Paid leave for trade union business	27	33	53
Paid leave for trade union training	43	44	55
Union encouragement	17	10	44
Contract labour	20	38	36
<i>Restricted use of contract labour</i>	7	14	19
Provision for AWAs	5	4	5
Exclusion of AWAs	27	37	20
Unpaid family leave	8	11	8
Paid family leave	2	3	3
Paid maternity leave	2	5	7
Family responsibilities	1	2	3
Part-time work flexible/facilitative	13	9	6
Part-time work employee/wage quotas	12	9	7
Restricted use of casuals	#	#	#
Seasonal variation of hours of work	5	2	1
Flexible start/finish times	4	3	3
Regulated start/finish times	24	15	19
Shift penalties at ordinary rates	#	1	1
12 hour shifts	14	17	8
Banking of RDOs	26	18	44
Staggered Breaks	14	13	13
Breaks not to interrupt continuity of work	11	11	8
Benchmarking	8	15	29
Continuous improvement	32	47	49
Multi-skilling/flexible deployment of labour	45	40	33
Team work	15	22	14
Direct labour productivity	4	7	2
Quality	4	1	*
Apprentice/trainee wage provisions	8	12	47
Total			

No data recorded

* Represents less than 0.5 per cent

** Up to 30 September 2002

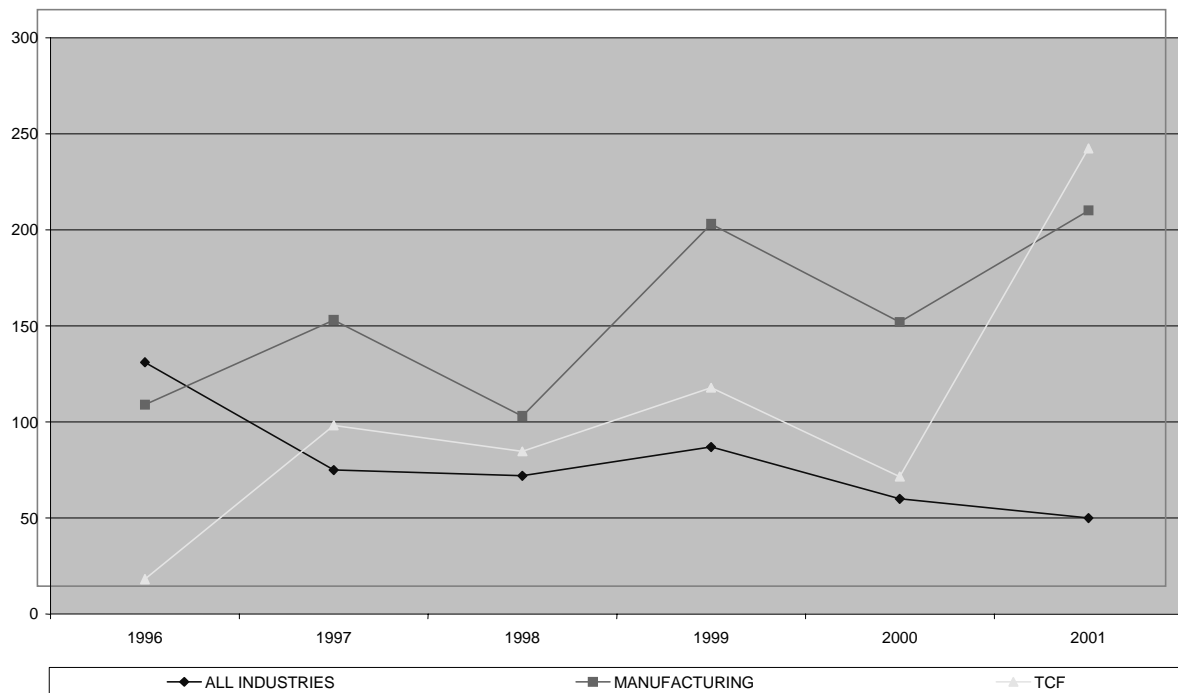
Note: Table displays current agreements as at 30 September 2002. Current agreements are those agreements that have been certified but have neither been terminated nor expired at a given point in time. An agreement that expires on a given date is deemed to be current on that date.

Source: DEWR, Workplace Agreements Database

2.2 Industrial disputation

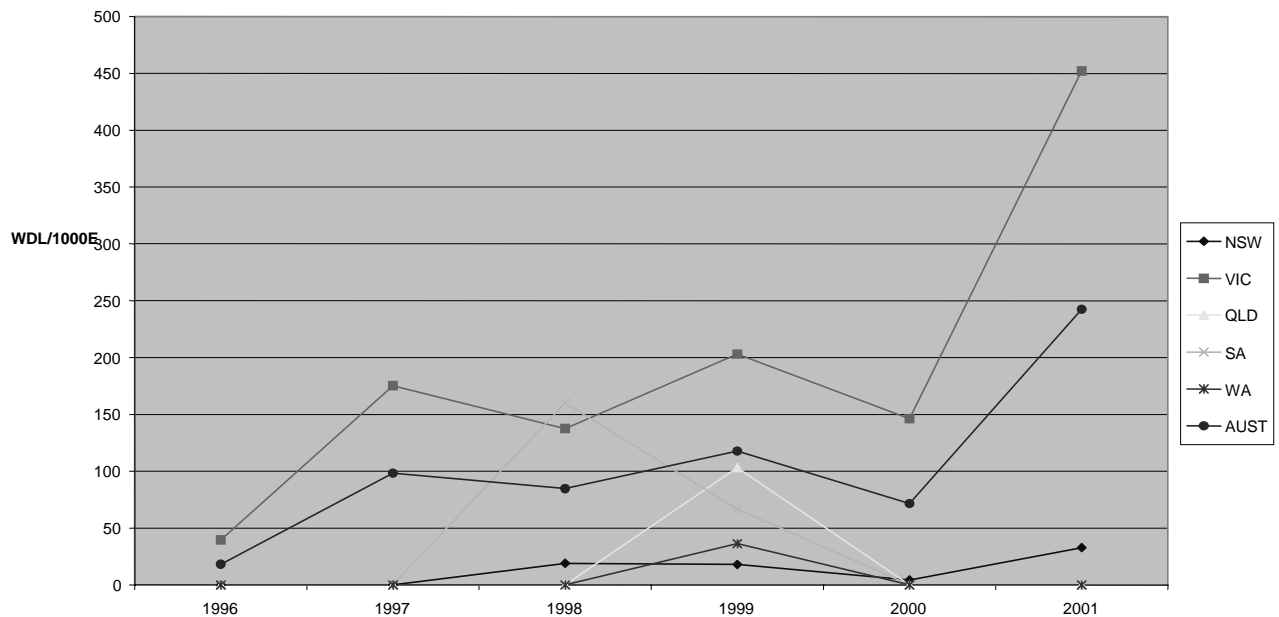
26. The strike rate in the TCF sector was higher than the all industries strike rate, and lower than the manufacturing strike rate for each of the years between 1997 and 2000.⁵ However, in 2001, the strike rate in the TCF industry was above that for the manufacturing industry and was almost five times the all industries strike rate for that year (see Figure 1).⁶

Figure 1: Working Days Lost per 1000 Employees (WDL/1000E); Selected Industries; 1996 - 2001



27. The majority of disputes occur in Victoria. Since 1996, 89 per cent of total WDL in the sector have been in the Victorian TCF industry⁷. In 2001, the Victorian TCF strike rate was 452 WDL/1000E, compared with 33 WDL/1000E for the New South Wales TCF industry, and 0 WDL/1000E for the sector in all other states (see Figure 2).
28. Recent bargaining campaigns in the sector have centred on issues of job security, redundancy and employee entitlements. These issues have emerged as competitive pressures on the industry have increased in the context of reduced levels of protection.
29. The recent upward trend in dispute levels in Victoria coincides with the Textile, Clothing and Footwear Union of Australia's campaign that focused on job security and payment of employee entitlements into union controlled trust funds during the last round of bargaining in 2001.

Figure 2 - Working Days Lost per 1000 employees



2.3 Employee entitlements

30. Industrial action in support of the payment of employee entitlements into trust funds is not confined to the TCF sector. The push for union trust funds is continuing in the broader manufacturing industry. It was an issue discussed by the PC in its review of assistance to the automotive industry.
31. In its Review of Automotive Assistance Inquiry Report the PC noted that some have suggested that industry or national initiatives are required to address concerns about loss of employee entitlements in the event of company insolvency. The PC suggested that some industry level dialogue may be required. These views fail to recognise that the unions' agenda in relation to employee entitlements goes beyond securing the payment of entitlements in the event of company insolvency. The impact of unions' claims for payments into trust funds affects companies that are not facing or likely to face insolvency. Conceding to the unions' claims would place a significant burden on business and would ultimately cost jobs.
32. Further, these views fail to recognise that the Federal Government has already put in place a national scheme. In 2000 the Federal Government introduced measures to address concerns about the loss of employee entitlements in cases of company insolvency and compensate for employees' legal entitlements left unpaid due to an employer's insolvency. The current scheme, the General Employee Entitlements and Redundancy Scheme (GEERS), is fully funded by the Federal Government.
33. Under GEERS and its predecessor, the Employee Entitlements Support Scheme, employers remain liable for the payment of their employees' full entitlements. However, payments can be made under these schemes as an advance, where there are insufficient funds available from an insolvent employer.

34. Firms need to manage the employee entitlements issue in a manner relevant to their situation. If currently viable businesses were to be compelled to make payments to trust funds consistent with the unions' claims the cost would be so great it would result in more incidents of company failure, particularly where those funds seek payments for entitlements which significantly enhance current employment conditions. For example, the manufacturing unions' National Entitlement Security Trust (NEST) seeks payments for long service leave (LSL) from the time a person commences employment. This is despite the fact that in this industry LSL entitlement would not normally accrue until after an employee has 13 years of service. There is concern within the industry that union controlled trust funds like NEST require companies to put aside money for contingencies that might never eventuate.
35. Similar funds in the construction industry make 'severance' payments to employees when they cease employment. Under these schemes employees receive the funds regardless of whether they resign or are retrenched from the company. If the NEST fund were to operate in a similar manner the costs associated with this type of scheme would significantly weaken the competitiveness of the Australian TCF industry.
36. It is incumbent on all those with an interest in the future of the industry to ensure that management of employee entitlements in this industry focuses on voluntary implementation of viable solutions. There are other options to trust funds. Audits can be conducted and liabilities could be reduced over time through mechanisms such as cashing out leave. Further, employers and employees could refrain from developing overly generous redundancy arrangements. Many firms report that the potential cost of redundancy has hampered their ability to restructure and adapt, eventually undermining the company's long term viability.

3. Labour productivity and wages

37. The PC has asked what gains have been achieved in labour productivity over the past few years and what has happened to rates of pay in the sector over the same period.
38. Historically, TCF has had the lowest labour productivity among the manufacturing industry sub-divisions (Table 2). The TCF industry is a relatively labour intensive industry. This is one of the reasons why the geographical distribution of the TCF industry employment has shifted from high wage countries to low wage countries.

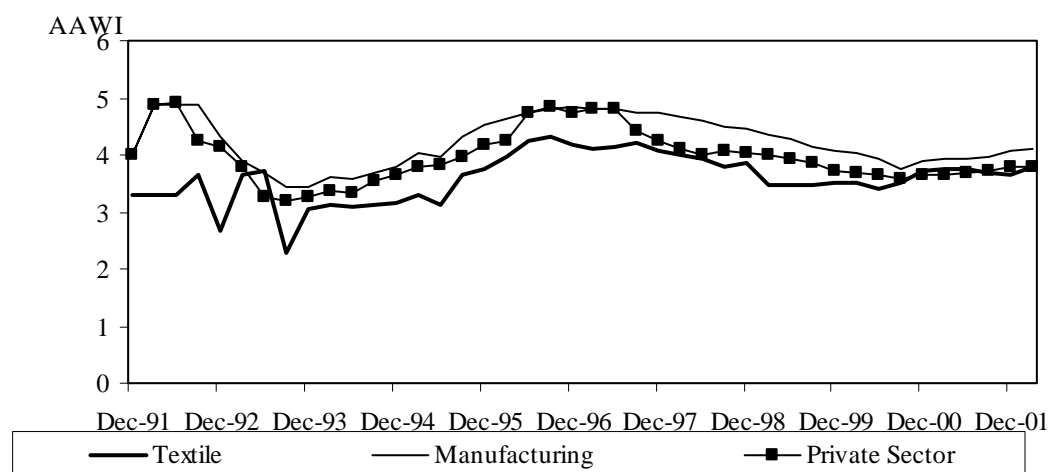
Table 2: Gross value added (\$) per employed person in selected years (measured in 2000-01 \$)

	1985-86	1989-90	1994-95	1999-00	2001-02
Food, beverage and tobacco	53169.1	58111.8	62625.8	81467.6	82279.2
Textile, clothing, footwear and leather	37107.6	35229.3	35693.1	38801.3	33622.0
Wood and paper products	78163.5	65719.5	77584.5	91215.6	84224.5
Printing, publishing and recorded media	49679.9	55455.6	55017.0	60295.1	59718.4
Petroleum, coal, chemical, etc	62883.9	69289.7	76830.5	86201.6	93216.1
Non-metallic mineral products	81993.2	88281.8	86115.6	81392.5	95101.1
Metal products	61852.0	72497.4	79171.8	80908.7	99784.7
Machinery and equipment	39108.0	43321.8	55220.1	68829.6	64513.0
Other manufacturing	44539.9	42958.6	40350.3	39774.5	42462.8
Manufacturing Total	51275.0	55159.6	61349.0	70794.3	73850.1

Sources: ABS Cat. No. 5206.0 and 6291.0.40.001⁸.

39. The wages data provided below refers to wages outcomes in federal certified agreements.
40. Since 1994, average annual wage increases (AAWIs) in TCF have been in line with those for all manufacturing with a gap of 0.5 and 0.9 between the two series (Figure 3). TCF agreements current at 31 March 2002 provided an AAWI of 3.8 per cent per employee. This is slightly below the AAWI of 4.1 per cent provided by all manufacturing but is consistent with the AAWI for private sector agreements overall.⁹

Figure 3: AAWIs in federal agreements in the textile sector, the manufacturing industry and the private sector, December quarter 1991 – March quarter 2002¹⁰



4. Labour mobility

41. The PC asks whether the characteristics of the TCF workforce (eg. skill levels, age profile, ethnicity, gender) hinder labour mobility within the sector, between it and other sectors, and what consequences this might have for the long term viability of the sector and its ability to adjust.
42. The TCF workforce is characterised by persons that are predominantly unskilled, female, and from non-English speaking backgrounds.¹¹ The workforce of the TCF industry is ageing, with around 45.7 per cent being over 45 years of age.¹² A relatively high proportion of the TCF industry workforce has low educational attainment. The TCF industry continues to have a significant representation in non-metropolitan areas. (More detail on TCF employment characteristics is provided in Attachment A). The combination of these factors would suggest that labour mobility for TCF workers is a challenging prospect compared with workers in other industries.
43. Australia has a relatively mobile workforce when compared with other OECD countries.¹³ The ABS has estimated that around 15 per cent of the labour force changes their labour force status each month. However, workers within some industries such as TCF are less mobile than others. Between 1988 and 1996 job mobility for workers in TCF ranged between 10 and 14 per cent. Job mobility has declined recently with only around 8 per cent of workers in TCF being job mobile in 2002 compared with 15 per cent of workers in all industries.
44. Employment flows both outside the industry and particularly within TCF were more pronounced in the 12 months to February 1996. In this period around 7.6 per cent of TCF workers found jobs outside of the industry and 6.7 per cent found jobs with other firms within the industry. In the 12 months to February 2002, 6.2 per cent of TCF workers found jobs outside of the industry and 1.5 per cent found jobs with other firms in the industry. A number of factors could have contributed to declining intra-industry labour movements in 2002, including the greater stability within the industry in terms of reduced retrenchment activity.

4.1 Labour market experience of retrenched TCF workers

45. Much of the literature surrounding the labour market experience of retrenched workers in TCF concentrates on the difficulties they experience in finding alternative employment.¹⁴ More recent data indicates an improvement in employment prospects for retrenched workers in the industry. The number of retrenched workers in the TCF industry declined from 17,700 in the three years to 1997 to 8,600 in the three years to June 2001. This constitutes a fall of 9,100 or 51.4 per cent.
46. The re-employment prospects for retrenched workers in TCF have improved significantly in the three years to 2001 compared with the three years to 1997. Around 79.1 per cent of TCF workers who had become retrenched in the three years to June 2001 had found alternative employment by the time the survey was undertaken in July 2001. This is substantially higher than the 47.5 per cent of TCF workers who had found alternative employment after becoming retrenched in the three years to June 1997 and higher than the proportion of workers in all industries who had found alternative

employment by July 2001 after becoming retrenched in the previous three years (67.2 per cent).

47. Employment prospects for retrenched workers in TCF appear to have improved in terms of the ease with which workers can find jobs in other industries after becoming retrenched. Around 60.3 per cent of persons retrenched in the three years to June 2001 who found jobs by July 2001 had found employment in industries apart from TCF and Manufacturing. By comparison, 54.8 per cent of persons retrenched in the three years to June 1997 who found jobs by July 1997 had found employment in industries apart from TCF and manufacturing.
48. A number of factors have contributed to the increase in employment prospects for retrenched workers in TCF in recent years. These include the overall improvement in the performance of the economy and the labour market, and the increase in the proportion of TCF workers with higher educational attainment and skill levels which has increased their prospects of finding jobs in other industries.

4.2 Employment assistance for retrenched workers

49. As a result of micro-economic reform, globalisation and more rapid diffusion of new technology, there have been some increases in structural unemployment at various times over the past decade, particularly the loss of jobs for mature-age persons in more traditional industries such as TCF. Retrenchment and redundancy tends to have had a more adverse impact on older workers. Older people have a lower unemployment rate than younger people but, unfortunately, when they become unemployed, they tend to stay out of work for twice as long as younger workers.¹⁵
50. Employment policies are focussed on providing job search support to assist unemployed persons to rejoin the workforce as quickly as possible. The Government has implemented a number of initiatives to ensure that unemployed people have the skills, job search techniques, confidence and motivation needed to obtain the jobs generated by economic growth. Retrenched workers can access labour market assistance available to other jobseekers under Job Network, subject to a number of income and asset testing constraints. Assistance can take the forms of Job Matching, Job Search Training, Intensive Assistance and access to the New Enterprise Incentive Scheme (NEIS).
51. Developing strategies to overcome mature-age unemployment is a high priority for Government employment policy. Retrenchees that are registered for income support are assessed by Centrelink to determine the most appropriate form/s of assistance.¹⁶ Retrenchees, have access to extra support and information about services such as financial advice. Training Accounts are available to assist mature age people in Intensive Support gain work-related skills for the local labour market.
52. Job seekers aged between 40 and 49 may volunteer to participate in Work for the Dole to gain appropriate skills. Department of Employment and Workplace Relations (DEWR) research indicates that Work for the Dole recipients were 76 per cent more likely to exit benefits (overwhelmingly for employment or education reasons) than jobseekers with similar characteristics who did not participate in the programme.

5. Employment arrangements for outworkers

53. The PC has raised questions regarding the availability of information about outworkers, their working conditions and the impact of legislative and voluntary initiatives on outworkers. Despite a number of industry studies, there continues to be a lack of reliable basic information about outworkers such as the number of people employed as outworkers.¹⁷ TCF outworkers are generally characterised as being females from non English speaking backgrounds. There are anecdotal reports of substandard working conditions but an absence of formal complaints from workers themselves.
54. The characteristics of TCF outworkers described in the previous section suggests they would be less competitive in the general employment market, therefore work in this industry provides important job opportunities for these workers. Further, many of these workers seek options that allow them to balance their work and family responsibilities and outwork provides the benefit of working from home.

5.1 Federal award provisions affecting outworkers

55. The federal *Clothing Trades Award 1999* requires that an employer who engages contractors or outworkers must be registered by the Clothing Trades Award Board of Reference. The Board of Reference is comprised of union, employer and AIRC representatives. Failure to register with the Board of Reference can result in prosecution for breach of the award.¹⁸
56. At the federal level award compliance is monitored by the Office of Workplace Services (OWS) in DEWR. OWS receives very few claims from outworkers in the TCF industry. Only one claim was received in Victoria for the period January 2001 to February 2003. An outworker campaign was conducted by DEWR in 1998. The campaign aimed to assist manufacturers, subcontractors and outworkers in the clothing industry understand their rights, responsibilities and obligations under the legislation. This project did not result in any claims where there appeared prima facie to be a breach of the award.

5.2 Improved Protection for Victorian Workers Bill 2002

57. The Federal Government currently has the *Improved Protection for Victorian Workers Bill 2002* before Parliament.¹⁹ The Bill aims to enhance the legislated safety net entitlements for contract outworkers in the TCF industry in Victoria to receive at least the minimum hourly rate of pay applicable to TCF outworkers deemed to be employees under Schedule 1A of the WR Act. The objective of this Bill is to provide arrangements for contract outworkers in the TCF industry, in keeping with norms for employees in the industry, whilst not disrupting the flexibility of contract working arrangements.
58. The proposed legislation will give TCF contract outworkers access to enforceable minimum rates of pay and improve compliance and enforcement arrangements for those workers. It will empower inspectors to enforce the minimum rate of pay and seek remedies in the courts on behalf of contract TCF workers where non payment or underpayment is identified.

59. Policy considerations of workplace relations arrangements for TCF outworkers should bear in mind the competitive realities of this industry and the opportunities this type of work provides for a particular sector of the workforce. Consideration should also be given to the preferences of workers who wish to work from home to balance their work and personal lives and in doing so strike a balance between the regulation and the flexibility of working conditions for outworkers.

5. Conclusions

60. This paper finds that the TCF industry has had mixed success in utilising the flexible options available under the WR Act. The industry should be taking the initiative in using agreement making options such as certified agreements and Australian Workplace Agreements (AWAs), so as to establish arrangements that optimise competitiveness whilst providing flexibilities which meet the needs of employers and employees. The experience of other industries demonstrates that implementation of flexible arrangements improves the productivity and competitiveness of business.
61. The agreements that are currently in place are predominantly negotiated with unions rather than directly with employees. This is inconsistent with the trend in the industry towards reduced levels of union membership and questions whether the industry is best utilising the arrangements that reflect the choices of employees in the workforce.
62. Success in introducing these types of arrangements will be largely dependent on the effort and skills of management in communicating with and engaging the workforce. However, the experience of companies that successfully make this effort demonstrates the benefits in terms of working cooperatively with the workforce to manage challenging workplace issues.
63. The PC, in its analysis of union claims for employee entitlement trust funds, should recognise that these claims are generally targeted at viable yet industrially vulnerable companies that have a capacity to pay. These claims can present a significant cost burden which would undermine the competitiveness of the sector. They are unnecessary as the current Government scheme provides for payment of specified employee entitlements in the case of business insolvency to the community standard level.
64. Re-employment prospects for retrenched workers in TCF have improved significantly in the three years to 2001 compared with the three years to 1997. This has occurred despite decreasing employment in the sector and the relatively disadvantaged position of many TCF workers. The factors which have contributed to improved mobility include the overall improvement in the performance of the economy, the labour market, and the increase in the proportion of TCF workers that have attained higher educational and skill levels.
65. Clearly there is still a need to address the adverse impacts of retrenchment and redundancy of older workers. The Government has a number of initiatives in place to address this issue. Development of strategies to overcome mature-age unemployment has become a high priority for Government employment policy.
66. Similarly, the Government has introduced legislation which provides protection for outworkers whilst not disturbing flexible employment conditions. The flexibility of this type of arrangement enables domestic operators to compete in the TCF market and keeps jobs in Australia. Over regulation will result in more TCF work moving offshore and as a result lost opportunities and jobs for those who rely on employment in this industry.

NOTES

¹ The Industry Commission Report on the Textiles, Clothing and Footwear Industries 1997

² In September 2002 there were 193 TCF wage agreements, covering an estimated 12,900 employees. This data is drawn from the September quarter 2002 Workplace Agreements Database (WAD) data set of federal collective agreements certified on or before 30 September 2002. The WAD is maintained by DEWR. The WAD contains information on all known federal enterprise agreements which have been certified or approved by the AIRC since the introduction of enterprise bargaining in 1991. The WAD covers general details (sector, ANZIC, duration, employees covered), wage details (quantum and timing of increases) and employment conditions. Information entered on the WAD is derived from copies of federal agreements lodged with the Australian Industrial Registry.

³ ABS publication *Manufacturing 2001* estimates that union membership in the TCF sector has dropped from 45% in 1995 to 31% in 2000

⁴ This figure is obtained from the WAD excluding construction agreements. The WAD dataset for construction is uniquely dominated by pattern agreements. Removing construction from the dataset gives a more accurate comparator with TCF.

⁵ dispute figures for the TCF and Mfg industry WDL is unpublished ABS data. Estimates of WDL/1000E are derived by DEWR combining this data with number of employees in those industries from the ABS Labour Force Survey (Supertables).

⁶ In 2001 the TCF strike rate increased to 242 working days lost per 1000 employees (WDL/1000E), the manufacturing industry strike rate was 210 WDL/1000E and the all industries strike rate was 50 WDL/1000E.

⁷ Since 1996 there have been 41,800 WDL in the Victorian industry, representing 89% of the total WDL in the TCF industry over that period of 46,800 WDL.

⁸ Notes: Changes implemented in February 2000 in the coding practice for classifying labour force data into industry groups meant that the historical data, before and after February 2000, are no longer strictly comparable at the industry level. Further, historical data were adjusted to accommodate definitional changes in the Labour Force questionnaire introduced in April 2001 but only at the 1-digit ANZSIC level. All these changes could have an impact on the historical series of labour productivity estimates at the industry level and its various levels of disaggregation. Hence caution needs to be exercised in comparing historical data or comparing productivity estimates among different levels of ANZSIC classifications.

⁹ The time series for agreements current at the end of the quarter is used as it provides a less volatile measure of AAWIs

¹⁰ Source: Workplace Agreements Database, DEWR Note: There were no quantifiable wage agreements certified in the textile sector in the March and June quarters of 1992.

¹¹ *ABS Manufacturing 2001* publication (Cat. No 8221.0)

¹² 45.7 per cent of the TCF workforce was over 45 years of age in November 2002 compared with 31.2 per cent in November 1994. *ABS Labour Force Survey* (original data) (Cat No. 6203.0).

¹³ Job mobility is defined by the ABS as the proportion of the workforce that found a job with a new employer, or moved to a different location either with the same employer or a new employer. When changing jobs, workers may move to another firm within the same industry or move to another firm in a different industry. Workers may also change occupation as part of that job change. The concept of labour mobility is broader and includes not only those who make the transition from job to job, but all those who change their labour force status – from employment to unemployment and vice versa and withdrawal from and participation in the labour force

¹⁴ Most notable papers prepared on the labour market experience of retrenched workers in TCF include: Weller, S. 1997, *Labour Market Outcomes for Retrenched TCF Workers: the First 2 Years after Retrenchment*; and Webber, M., Weller, S., O'Neill, P., Campbell, I. and Fincher, R. 1995, *TCF Labour Adjustment Study: Final Report*.

¹⁵ The average duration of unemployment since last full-time job held for unemployed persons aged 45 to 64 years in November 2002 was 104.4 weeks, which compared with 53.3 weeks for all persons aged 15 and over. *ABS Labour Force Survey* original data (Cat No. 6203.0)

¹⁶ Centrelink use the Job Seeker Classification Instrument (JSCI) to identify individual job seeker needs. The JSCI, for example, identifies mature-age people who may require access to Job Network services, including Intensive Support.

¹⁷ Senate Economics References Committee, *Outworkers in the Garment Industry*, December 1996. Figures quoted in Chapter 2 – ‘Outworkers and Garment Production’, with estimates varying between those of the Australian Taxation Office (50,000) and those of the Textile, Clothing and Footwear Union of Australia (329,000)

¹⁸ Registered employers are not permitted to employ more than 10 outworkers without the consent of the union or of the board. Employers are required to provide details of all the companies and individuals they have given work to. Information from the Australian Industrial Registry indicates that there are 111 current registrations across Australia.

¹⁹ Further information about the Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002 is available in the Regulation Impact Statement at <http://www.apf.gov.au/bills/index.htm>

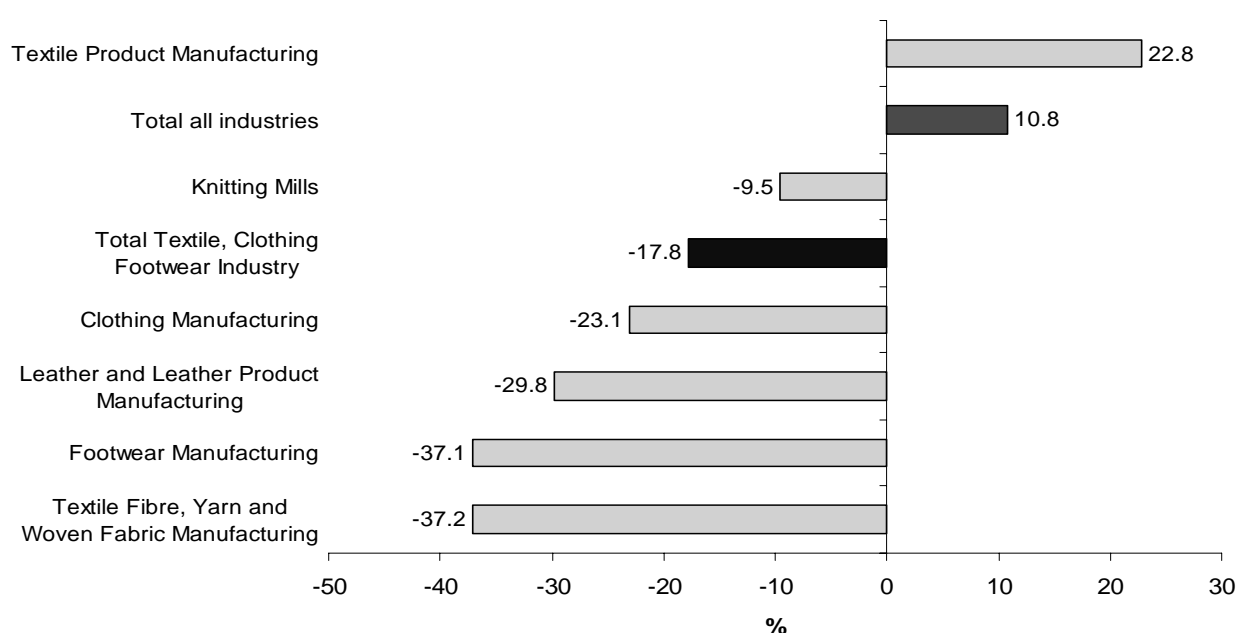
ATTACHMENT A

Workforce Characteristics

Employment Trends

The TCF industry employed 78,600 persons at November 2002 and accounted for less than 1 per cent of total employment. Employment in the industry has been consistently declining over the five years to 2000. The only segment of the industry to grow over this period has been Textile Product Manufacturing (see Figure 4 below).

Figure 4: Percentage Change in Employment for Textile, Clothing and Footwear Industry, five years to November 2000.



Source: DEWR trending of ABS, Labour Force Survey data

Age profile

The three largest occupations in the TCF Industry are over represented in the 45 and over age group. Some 43 per cent of both Sewing Machinist and Textile and Footwear Production Machine Operators and 49 per cent of Clothing Tradespersons are aged 45 or over, compared with 33 per cent of all employed persons. Manufacturers (a type of General Manager) are also comparatively old, with 59 per cent aged 45 or over. Such age profiles may limit opportunities for changing occupations.

Gender

53.7 per cent of the TCF workforce were female in November 2002. Females account for the vast majority of Sewing Machinists, Clothing Tradespersons and Secretaries and Personal Assistants, whereas males account for the majority of the other top ten occupations in the TCF industry. Females comprise only 1.5 per cent of Footwear Tradespersons.

Skills Issues

Given the competitive global pressures that the industry faces, improving productivity through technology adoption and acquiring skills could be vital for the industry.

A high proportion of the TCF industry workforce has low educational attainment compared with other industries, although there has been a significant improvement over time. A higher proportion of TCF workers have completed high school (29% in 1984 to 55% in 2002) and have post-school qualifications (18.8 % in 1984 to 36.3% 2002).¹⁹ Educational attainment is not the only criterion to determine skill, but it is considered an important one.

Labour force characteristics

The latest Census (2001) data shows that 61 per cent of people with TCF vocational qualifications were not in the labour force. This compares to 37.0 per cent for all persons with vocational qualifications not in the labour force. The unemployment rate for people with these TCF qualifications is 6.4 per cent, which is about 2 percentage points above the average of all occupations. Of those employed, some 75 per cent worked areas less related to their qualifications, such as Sales Assistants, Cleaners, Shop Managers, Sales Representatives, General Clerks and Secretaries.

Much of the employment loss in the TCF industry in the last fifteen years has been in occupations not requiring formal education. Employment loss in skilled occupations has only been slight. This reflects the greater adoption of more sophisticated production techniques in recent years and the loss of low skilled jobs associated with outmoded forms of production

Labour Mobility in TCF

Table 3: Labour Market Experience of Retrenched TCF Workers

	3 Years to June 1997			3 Years to June 2001		
	Industry from which retrenched			Industry from which retrenched		
	Manufacturing	TCF	All Industries	Manufacturing	TCF	All Industries
Current LF Status ('000)						
Employed	89.0	8.4	374.9	80.7	6.8	400.5
Unemployed (UE)	53.6	4.9	200.5	26.3	1.5	99.1
Not in the Labour Force (NILF)	24.2	4.4	110.0	15.0	0.3	96.8
Total	166.9	17.7	685.4	122.1	8.6	596.4
Labour Market Outcomes (%)						
Prop Employed	53.3	47.5	54.7	66.1	79.1	67.2
Prop Unemployed	32.1	27.7	29.3	21.5	17.4	16.6
Prop Not in the Labour Force	14.5	24.9	16.0	12.3	3.5	16.2
Prop UE or NILF	46.6	52.5	45.3	33.8	20.9	32.8
Labour Mobility (%)						
Prop found job in Manufacturing	49.3	45.2	18.2	49.7	39.7	15.4
Prop found job in TCF	3.4	27.4	1.3	5.5	27.9	1.3
Prop found job in Other Industries	50.7	54.8	81.8	50.4	60.3	84.6

Source: Unpublished ABS data from *Retrenched and Redundancy* (Cat No. 6266.0)

