4 June 2003

Mr David Robertson
Presiding Commissioner
Review of TCF Assistance
PO Box 80
Belconnen ACT 2616

Dear David,

Review of TCF Assistance

Thank you for the opportunity to respond to the Productivity Commission's Position Paper regarding the Review of TCF Assistance, which we will be discussing at our meeting today.

Let me compliment you and Assistant Commissioner, Philip Weickhardt on the conduct of the review and the quality of the Position Paper. I believe the Paper provides a balanced and considered view of the current state of play in the TCF sector and sets out a range of helpful proposals to take the sector forward. The Australian Industry Group is also appreciative of the Commission's willingness to take into account the findings of our comprehensive survey of TCF firms.

Ai Group has the largest representation of TCF membership of any industry association, with no particular sub-sector or group dominating membership. Responding to the Commission's Position Paper has therefore been a challenge in that we have sought to present a balanced view reflecting the diversity of positions, particularly large and small firms, and firms included and excluded from the current support arrangements.

There are clearly disparate views among these sectors. Ai Group has listened to these views and resolved to adopt a position that will ensure a globally competitive and strong TCF sector going forward, albeit one that may be somewhat smaller than currently exists. Global competition from low labour cost countries, including China, Indonesia and Thailand, will challenge the TCF sector in Australia to remain globally competitive.

In our response we have focused on three major issues:

1. Import tariffs to apply after 2005
2. The nature and level of industry assistance
3. Job displacement and employee entitlements.

This is not to imply that we do not agree with many of the broader points raised by the Commission, particularly in regard to microeconomic reform, taxation, market access, skills training and outworkers.

However, like the Commission, we believe that future policy solutions for the TCF sector centre around the three issues identified above.

TCF Tariffs after 2005

Following the previous TCF review in 1997 and under arrangements already legislated, TCF tariffs are set to fall in 2005. Faced with this reality, firms have adopted measures involving a mix of downsizing domestic operations (including staff cuts, moving production offshore and other rationalisations), and an increasing focus on pursuing growth strategies (including product development, new capital equipment, exports and more R&D).

In regard to post 2005 arrangements, the Commission has outlined four options for tariffs after 2005. These are:

- Option 1 Maintain all TCF tariffs at 2005 levels until 2010, then reduce to 5% and maintain to 2015.
- Option 2 Reduce all 2005 TCF tariffs in even annual steps to achieve 5% in 2010, then maintain to 2015.
- Option 3 "Top down" to 5% in 2010, then maintain to 2015.
- Option 4 As for option 1, but reduce tariffs on apparel and certain finished textiles to 10% in 2010 and then to 5% in 2015.

Ai Group in its original submission stated that any support for lower tariffs after 2005 was contingent on a pause until 2010 and continued government support for domestic TCF firms.

Ai Group continues to hold to this position. With this in mind, option 4 is considered the most acceptable option.

While Ai Group agrees that the TCF sector should be able to operate with certainty into the future, any support for option 4 by Ai Group must be contingent on the Federal Government agreeing to examine the industry environment, particularly in regard to overseas market access and tariff arrangements applying in competing countries in 2008. No one has a crystal ball to predict with any certainty what the environment will look like in 2008, so such an examination would be a prudent and responsible check to any decision regarding domestic tariffs made in 2003, five years earlier.

Ai Group's view that further tariff reductions in 2010 should be conditional on further action by other competing countries is a matter of principle. To put it simply, while we agree that Australia's commitment to free trade implies that we should work towards this goal, this is not to imply we should do this at the expense of Australia's domestic interests, particularly if it results in significant costs to the TCF sector, regional economies and the jobs of Australian workers, while other countries remain protectionist.

Finally, Ai Group continues to oppose the imposition of a 3% tariff on imported business inputs, including TCF imports, where there is no domestic production under the Tariff Concession Scheme. As the Commission has acknowledged previously this tariff imposes unnecessary costs on the customer and disadvantages Australian manufacturers.

Industry Assistance – the Strategic Investment Program

The Commission has acknowledged the industry argument that any tariff reduction should be supported by continued industry assistance.

Ai Group believes that any assistance has three broad purposes – to help firms in the transition to lower tariffs; to minimise the negative consequences of restructuring on

regions and the economy; and to promote the growth of a strong and internationally competitive TCF sector. Finding the right balance between these objectives has been the challenge facing the Federal Government in policy setting.

Industry assistance currently provided under the Textile, Clothing and Footwear Strategic Investment Program (SIP) is designed to foster the development of sustainable, competitive TCF industries in Australia during the transition to a more competitive trading environment post-2005. A total of $677.7 million over five years is provided under SIP.

The Scheme provides incentives in the form of grants to promote investment, innovation and value adding in the Australian TCF industries.

In our original submission, Ai Group stated that the overwhelming view of TCF members was that the SIP program needed to be changed to provide for enhanced flexibility in the program.

The strength of these concerns cannot be ignored. We stated that "more firms should be given access, the rules should be applied less rigidly, process efficiency improvements should be supported, and some degree of modulation encouraged. As well, funding should better reflect the distribution of activities and firms within the TCF sector".

The Productivity Commission has acknowledged many of these points and raised three options for taking the program forward – a modified existing arrangement (option A); bounty based on additional value added (option B); or firms compete for assistance (option C).

Further discussions with industry representatives and reflecting on members views on the need for change has led Ai Group to the conclusion that a new SIP program starting from 2005 is desirable. Some fine-tuning however may be appropriate in the short term to enhance flexibility along the lines suggested by the Productivity Commission. This could include providing greater flexibility for companies in receiving funding for value-adding activity (type three grants); broadening the definition of innovation; paying claimants quarterly; and making early stage processing eligible for funding.

Rather than SIP being focused predominately on research and development (R & D) and investment expenditure, Ai Group believes that SIP should seek to support companies to

be internationally competitive through supporting changes to lift productivity and efficiency. This implies that funding should embrace not only R & D and investment, but also the other main driver of competitiveness, i.e. labour productivity. Essentially this means opening the program to support process and other efficiency improvements. Such a program could be derived from modifying the existing SIP program (option A), but would require legislative change to enable the funding of process efficiencies.

The benefit of this approach would be to facilitate the opportunity for small to medium firms, who have the potential to be internationally competitive in niche markets for example, to have access to funding to enable them to draw on all the main levers of competitiveness, whether they be through process improvement, investment, information technology and/or research and development. It would ensure that companies who have a long term commitment to Australian manufacturing are given the opportunity to grow and develop, whether they be large or small.

Broadening the range of expenditures under the SIP program could raise issues regarding expenditure threshold and modulation, raising concerns about diluting the effectiveness of the program. However, a clearer articulation of program objectives, guidelines, and eligible expenditures should result in a more relevant program to the industry's future under a lower tariff environment. These should be enshrined in a new Act for SIP beyond 2005. The outcome would be a stronger, more productive and competitive TCF sector.

Ai Group's proposal to build a stronger SIP program clearly raises issues about the quantum of funding going forward. The Productivity Commission has proposed eight years of funding until 2013 to the value of $840 million, based on full funding from 2005/6 to 2008/9, followed by half funding from 2009/10 to 2012/13.

This amount is clearly inadequate to meet the strengthened objectives of a new SIP program. It also departs from the approach adopted by the Commission in affording the automotive industry a further 10 years of assistance from 2005.

Ten years of full funding would cost $1.44 billion, that is about $144 million a year. This is a small price to pay relative to the near $900 million collected in customs duties on TCF goods each year, along with over $100 million collected in company tax.

Ai Group's view is that the Commission's proposed funding level falls well short of what is required to lift productivity and competitiveness, to assist the process of transition to lower tariffs and to minimise the economic consequences to regions, the economy and jobs.

Job displacement and employee entitlements

As the Commission has acknowledged, further tariff reductions are likely to lead to significant job losses, particularly in regions. The Commission has recognised that sector-specific adjustment may be required to assist displaced workers facing hardship. This is particularly so given the experience of about one-third of displaced workers being unable to find work and another third being required to take lesser employment.

Recent modelling by the Victorian Government has highlighted significant potential damage to regional employment, as set out below. While these figures are subject to interpretation, there remains the need for the Federal Government to ensure displaced workers are given an opportunity to reskill and find alternate employment, starting from 2005 when lower tariffs come into effect.

Total Number of People Living in the Local Government Area with Jobs Dependent on the TCFL Industry

Local Government Area	2001	2005	2010	2015	2020	Jobs at Risk 2020
Ballarat (C)	1307	1203	1195	1183	1025	281
Banyule (C)	2915	2683	2665	2638	2287	628
Casey (C)	3292	3030	3009	2979	2583	709
Darebin (C)	3480	3203	3181	3149	2730	750
Greater Bendigo (C)	1860	1712	1700	1683	1459	401
Greater Dandenong (C)	1994	1835	1823	1805	1564	430
Greater Geelong (C)	5100	4694	4663	4616	4002	1,099
Hume (C)	3053	2810	2791	2763	2396	658
Maribyrnong (C)	1346	1239	1231	1219	1056	290
Melbourne (C)	729	671	666	660	572	157
Melton (S)	1318	1213	1205	1193	1034	284
Moreland (C)	3544	3262	3240	3207	2780	763
Wangaratta (RC)	1356	1248	1240	1228	1064	292
Whittlesea (C)	3909	3598	3574	3538	3067	842
Total	**91110**	**83859**	**83295**	**82464**	**71484**	**19,625**

Source: Victorian Government

Ai Group would therefore support additional funding being provided to support the adjustment process in the industry. However, such funding should be provided separate from the SIP program. As well, Ai Group believes that there is a case for seeing affected regions as being both rural and metropolitan, given there are high concentration of TCF firms and workers in specific municipalities of capital cities.

Finally, in regard to protection of workers entitlements, the Productivity Commission has suggested that there is a need for an independent review of the broader entitlements issue. Ai Group believes that measures to protect entitlements are best implemented by governments across the whole community. Accordingly, Ai Group supports the national initiatives introduced by the Federal Government to protect entitlements. These include changes to the Corporations Law and the introduction of the General Employee Entitlements and Redundancy Scheme (GEERS).

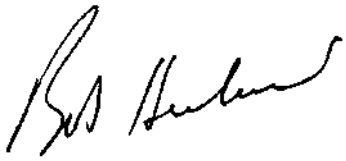
In relation to redundancy, given the extent of redundancy benefits which exist in the industry, any scheme, which endeavoured to fully protect over-award redundancy pay, would be extremely costly for employers and would inhibit industry competitiveness. Some of the issues and implications for industry are outlined in the attached documents summarising recent discussions with the TCFUA over this issue. Copies of two relevant Ai Group fact sheets and a booklet are also attached.

The provision of up to eight weeks redundancy pay under GEERS is consistent with the current community standard. This level of redundancy pay cushions the blow for employees when employers become insolvent and enables displaced workers to search for another job over a reasonable period without experiencing hardship.

Ai Group does not believe that it is practicable or desirable for an industry level scheme to be implemented to protect entitlements in the TCF sector. Ai Group favours the Federal Government legislating the terms of GEERS as a safety net scheme generally applicable to all Australians. We therefore see no need for an independent review.

Thank you again for the opportunity to comment on the Position Paper.

Yours sincerely,



R N Herbert
Chief Executive

ATTACHMENT

Employer's Response to TCFUA
Issues from Meeting 1 – (27 February 2003)
Discussion of Protection of Employee Entitlements

1. All the companies so far invited to participate in the discussions with the TCFUA on the issue of what is termed the protection of employee entitlements are members of the Australian Industry Group, and as such have requested that Ai Group represent them and coordinate their activities in this matter.

2. As a group of employers we advise that we are prepared to participate in discussions with the TCFUA about this issue in good faith and in accordance with the commitments given in our various enterprise agreements**.**

3. We have also decided to respond to you in writing, where we consider it appropriate. This is to ensure that the TCFUA and its members have consistent and unambiguous information about the group's position on the various matters that may be discussed.

4. The group firstly wishes to say that we consider it a very positive development that we have an opportunity to be able to sit down with the TCFUA (Victorian State Branch) leadership to discuss a significant issue of concern to both the employees and the employers in the industry.

5. It is our objective in participating in these discussions that we can resolve this issue once and for all. This is a highly emotive issue for employees and it is of vital importance to employers and the ongoing viability of their businesses. As employers we do not want to see a repeat of the very disruptive and damaging industrial action that occurred when this issue came to the fore in the agreement negotiations at Feltex and Godfrey Hirst in 2001.

6. We do readily acknowledge that the failure of an employer to pay what employees may see as their outstanding entitlements in the situations when they become due is a very disturbing and stressful situation for employees. We are sincerely

sympathetic to any person who finds themselves in such a situation. Also we do not support or condone the actions of any employer who deliberately fails to meet their obligations to their employees.

7. In response to the information given by the TCFUA at the meeting of 28 February 2002 we wish to state the following.

8. **The size of the issue.** According to information from the Productivity Commission, 99.9% of Australian businesses do not become insolvent leaving employees owed entitlements. Company closures that result in the loss of a number of jobs are seen as newsworthy events and gain significant media exposure. This may lead to a perception that the issue is bigger than it really is. We acknowledge that there has been a couple of notable instances in the TCF sector where employee entitlements have been in jeopardy following closures. We also note that this is very much a minority situation and that in most cases of redundancy, even closures, the employees are paid their full entitlements. Notable recent situations would include Bradmill and Flair Menswear. It is our view that the issue of unpaid employee entitlements, while very real for some individuals has been overstated and is not a wide spread problem within the industry.

9. The issue of what is an 'Entitlement' also needs some clarification for these discussions.

    - **Annual Leave.** There is a clear entitlement to annual leave that accrues on an annual basis.
    - **Sick Leave**. Under award provisions the entitlement to sick leave also accrues on an annual basis but access to it is contingent on the employee meeting the sick leave/carers leave conditions specified in the award.
    - **Long Service Leave.** The entitlement to LSL is contingent upon the employee achieving at least 10 years continuous service with the one employer. It is a reward for that long service with the one employer.
    - **Notice of Termination.** Notice is about time not payment. When an employer terminates an employee, that employee becomes entitled to a

period of time, dependent upon how long they have worked for that company, to continue in employment and look for another job. It is important to note that the concept of notice under the award, applies equally, (apart from the over 45 age requirement), to the employee when the termination of employment is at their own initiative. Payment of notice in lieu of the time to be worked is solely at the discretion of the employer.

- **Redundancy Severance Payment.** This is a contingent entitlement and is only triggered '**if and when'** an employee's employment is terminated for reasons of redundancy.

10. To suggest that all these items are ongoing entitlements, accruing from day one of employment, and owing to an employee in any circumstances of termination, including employee resignation or retirement is in our view just plain wrong.

11. The concept of a trust fund for these terms and conditions also raises the issue that it would create 'Portability' of these terms and conditions. Portability is not part of the make up of these items and never was. Portability fundamentally changes the nature and benefit of these items and is not something that we support.

12. The cost of trust fund proposals such as NEST is of very great concern to the employers. It has been calculated that to cover just the award items of long service leave, annual leave, notice and severance pay an employer would have to contribute 19.5% of payroll into the fund. The cost would be significantly higher to include the company specific enhanced severance payment component. This cost would starve companies of the necessary cash flow funds to operate their businesses on a day to day basis and would have a devastating effect on local manufacturing.

13. In your presentation you made a point of advising that with regard to NEST, tax and independence issues have been addressed. We do not concur with this assessment.

14. The Australian Taxation Office (ATO) has ruled that fringe benefits tax (FBT) is payable on amounts transferred into trust funds to protect employees' entitlements.

This appears to mean that for every $100 that is transferred into a trust fund, an additional $94 would need to be paid by the employer in FBT. *(FBT is calculated by "grossing up" the benefit and then applying the top marginal tax rate of 48.5 percent. A benefit of $100 would be grossed up to $194. $194 x 0.485 = $94 tax payable).*

15. The Federal Government has enacted new legislation that enables only **specific named** trust funds to be granted an exemption from FBT. However this exemmption is strictly subject to the fund meeting compliance with criteria set out in the legislation. At this time, NEST had **not** been granted an exemption.

16. It also seems to be the case that any amounts transferred into a trust fund must be treated as an expense in the company's accounts. This would have a significant impact on company profit for the relevant year, negatively affecting the value of the company and possibly it's share price where it is a public company. However, despite the treatment of the transfer as an expense, it seems that companies would be unable to claim a tax deduction for the transferred amounts until the funds are actually used.

17. Another problem is that amounts transferred to a trust fund can be regarded by the ATO as assessable as income to the trust. If this is the case, 48.5 per cent of the amount contributed by the employer would be lost in tax. That is, for every $100 contributed by the employer, only $51.50 may be available for the payment of benefits to employees.

18. Another problem is that payments from employers into a trust fund for the employee may be subject to payroll tax. A further unnecessary cost to employers.

19. Lawyers have analysed the NEST Trust Deed in detail and have identified a number of areas where the NEST proposal operates in a manner which is clearly adverse to the interests of employers. They include the following:

    - An employer who contributes to NEST will still be required to pay all of the entitlements that an employee is entitled to receive under their contract of

employment, award, certified agreement or legislation. This is despite the fact that the employer has made contributions to NEST in respect of such entitlements. Reimbursement to the employer for the amounts paid out to employees for such entitlements, appears to be at the **discretion** of the NEST trustee.

- The deed specifies that an employer is not entitled to be reimbursed by NEST unless the relevant employee advises NEST that all entitlements have been paid. This places the employer in the hands of the employee regarding reimbursements from NEST for entitlements already paid to employees.

- An employer is legally bound to continue making payments to the Trust until it ceases to be required to make payments pursuant to an industrial agreement.

- Under the terms of the Trust Deed, an employer is required to grant a very wide indemnity in favour of the NEST Trustee. The wideness of this indemnity means that an employer could be subjected to a substantial liability through no fault of its own.

- An employer who is contributing to NEST and sells its business is required to make the purchaser of the business become a contributing employer to NEST. This would obviously make any business contributing to NEST extremely difficult to sell.

20. You also raised several objections to the Federal Government's General Employee Entitlements and Redundancy Scheme (GEERS). It is our view that this scheme is the most appropriate solution to the size and nature of issue being dealt with bearing in mind the comments we have already made in points 8 to 19 inclusive.

21. In response to some of your specific objections (bold), to GEERS we would state the following.

- **The GEER Scheme is unacceptable because it is funded by the government**. Companies as well as individuals pay taxes. It is clear that any taxpayer funded scheme is partially funded by industry. A scheme which is entirely funded by business would be totally unfair on the companies which are trading successfully. This is because successful companies would be forced to fund the liabilities of unsuccessful companies. Such a scheme would also impose significant additional costs on industry which would decrease competitiveness and potentially lead to more business closures, job losses and loss of investment.

- **The GEER scheme is implemented through administrative arrangements and not legislation and therefore is less secure.** Funding programs do not need to be legislated to be secure. Legislation is only necessary when a scheme conflicts with existing laws. Numerous Government schemes are introduced through administrative arrangements. In the case of the GEER scheme a special account under the *Financial Management and Accountability Act* has been established. The GEER scheme is budgeted for and forms an integral part of the government's Workplace Relations Policy. Appropriate protection of employee entitlements are an important and central political issue which has now been addressed and will continue to be addressed regardless of which Government is in power. Despite the above, the Ai Group in representing it's members, has been pressing all political parties to support legislation to enshrine the GEER Scheme within legislation. The view of the Ai Group is that the scheme has been very successful in allaying employee fears about the loss of their entitlements and that now that the scheme has been in operation for over 12 months, it is appropriate that the scheme be enshrined within legislation. This would overcome consistent union criticisms about the administrative nature of the scheme.

- **The GEER scheme is unfair because redundancy is capped at 8 weeks.** The community standard for redundancy pay is found in the Termination

Change and Redundancy provisions in the AIRC test case and the many and various awards which have adopted it. This standard is maintained by the Australian Industrial Relations Commission – an independent tribunal. Other more generous schemes established via enterprise agreements are the product of direct negotiations and specific company circumstances. Insolvency is not contemplated when these over-award redundancy arrangements are negotiated. The focus of management is on preserving and growing the business and union officials are usually focussed on deterring companies from making hasty decisions to shed staff. It is not intended that these redundancy packages would one day be paid to every employee. If the Federal Government's scheme provided for a higher level of redundancy pay or unlimited benefits, the system would not treat all employees fairly. Some employees would receive the community standard while others would be more generously rewarded. By following the community standard, the Government is ensuring that all Australian workers are treated fairly in the relatively small number of cases when a company becomes insolvent and is unable to pay employees' entitlements.

- **The insolvency process can cause considerable delays.** When a company becomes insolvent, there is of course a need to determine what assets the company has and what amounts it owes to employees and other parties. Sometimes it can take several weeks or even months to determine these issues in complex cases. However, while unavoidable delays sometimes occur, as soon as it is clear what the entitlements of employees are, payments are made under the GEER scheme.

22. With regard to the Productivity Commission Review, we agree that the negative image of the industry needs to be addressed and that cooperation between the employers in the industry and the union would assist in enhancing this image. We do not agree that this is the issue to show that cooperation. On the contrary. Raising this issue at this time is extremely bad timing. Our fundamental difference on this issue will only highlight to the Productivity Commission Review the issues that divide us.

23. You have requested specific responses on two issues. Firstly, 'Will companies join with the TCFUA to approach government regarding legislation change ie 'Corporations Law' , for full entitlements including Superannuation to be recognized further up the list'?

24. The group having considered it's position on this issue, believe it should be recognised by all parties that the *Corporations Act* and Accounting Standards already provide very strong protection for employees' entitlements. The success of these mechanisms is obvious - 99.9 per cent of employers pay entitlements when due.

- The Corporations Act

  Directors of companies have a legal duty not to trade insolvently and become personally liable for debts incurred if they do so.

  Further, Directors of a company have a legal duty to ensure that care is taken in managing a company. This includes regularly reviewing the company's financial position.

  Also, the *Corporations Act* was amended on 30 June 2000 to penalise companies and company directors who enter into transactions with the intention of avoiding the payment of employee entitlements. (Maximum penalty 10 year gaol term and/or $110,000 fine).

- Accounting Standards

  Under Australian accounting standards, companies are required to provide for the amount of long service leave and annual leave that is due and is expected to be paid in the future. Further, if it is known that employees will be made redundant then the relevant amount of redundancy pay must be provided for. These amounts appear in a company's accounts and the amount of profit earned in the year is reduced accordingly.

As you may be aware, Treasury is currently consulting various industry and other bodies in respect of a Treasury proposal to elevate employee entitlements (except redundancy pay) ahead of secured creditors upon insolvency. Ai Group has informed us that it has considered the proposal and has advised Treasury that it has significant concerns about the proposal for the following reasons:

- Banks would almost certainly increase interest rates for business loans as a result, particularly for those loans assessed as being of higher risk.

- Some businesses may find that they are unable to obtain a loan under the new arrangements because of their risk profile. Without access to finance many such companies would have no option other than to cease trading.

- Banks would most likely subject companies to far more rigorous and onerous financial scrutiny before entering into loans. This would impose significant additional administrative costs on organisations.

- Banks may respond to the change in the priority of employees' entitlements by seeking further security for loans over the personal assets of Proprietors and Directors. This in turn would significantly diminish the preparedness of individuals to enter into business arrangements where they faced such a high personal risk.

- The impact would be greater on companies with labour intensive operations (eg. Those in the clothing and footwear industries) because such companies typically have a higher level of accrued entitlements.

- The impact would be greater on companies which employ long-serving full-time staff (eg. Those in the manufacturing industry) rather than those employing mainly short-term and/or casual staff.

- It would fuel further casualisation of the workforce which would not be in the national interest.

- Companies would be more reluctant to enter into new loans (given the arrangements which the banks would insist upon) which would negatively impact upon investment levels and therefore employment levels.

This group concurs with the views expressed by the Australian Industry Group on this matter.

The Productivity Commission recently expressed these cautionary words concerning changing the priorities which currently apply upon insolvency:

> *"An insolvency regime cannot fully protect the interests of all parties. Insolvency only occurs when some groups must be losers, and its prime intent is to create incentives for prudence among business owners and for a willingness to provide funds. If nothing else, that suggests caution in switching its objectives to other stakeholders, including employees"*[1].

Ai Group believes that the trust fund proposal would do nothing to increase the security of employees' entitlements because the entitlements concerned are fully protected by the laws and other arrangements in place and, in default, by GEERS. The proposal appears to be designed entirely to reduce the amount that would otherwise be payable under GEERS. This group questions the necessity of the proposal, given all of the risks involved. There is no evidence that the funding arrangements for GEERS are under pressure. Ai Group also advises that it has not detected any significant increase in the number of companies becoming insolvent since GEERS was introduced in September 2001.

It is our view that the proposal, if ever implemented, would place Australian employers in a very uncompetitive position compared to other countries as well as jeopardise and seriously damage the viability of the remaining Australian Textile, Clothing and Footwear manufacturers including our businesses. Information

1 Productivity Commission, *Business Failure and Change: An Australian Perspective*, Staff Research Paper, December 2000, p.99.

available to the Ai Group shows that there are very few countries which place employees' entitlements ahead of secured creditors upon insolvency. The Ai Group advises that it has proposed that the Federal Government arrange for a detailed analysis to be carried out of the priority assigned to employees' entitlements in other countries, particularly those in the OECD. Ai Group has submitted that it is essential that the Federal Government consider the results of such analysis before making a decision on whether or not to proceed with the proposal.

25. The second issue for response concerns representatives from NEST giving a presentation to the group. Given the problems with the NEST fund we have outlined and our fundamental opposition to the trust fund concept, we see little benefit in participating in such a presentation**.**

26. We would reiterate that we welcome the opportunity to sit down with the union to discuss some 'big' issues of interest to the industry, (but not matters more appropriately dealt with at the enterprise level). This would give us a real opportunity to demonstrate that perceived differences between the union and employers in the industry are not insurmountable.

27. To conclude it is our sincerely held belief that to really assist the TCF industry and the TCFUA members employed therein, the union should abandon this highly costly and inappropriate concept for further protection of employee entitlements. In our view the proposed cure is much, much worse than the illness.