Submission by the

Housing Industry Association

to the

Productivity Commission Review

of

National Workers Compensation and Occupational Health & Safety Frameworks

9 June 2003

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1 Introduction.

The Housing Industry Association Limited (HIA) is an association of approximately 30,000 businesses. It is the peak national industry association for businesses operating in the residential, building, renovation and development industry in Australia. HIA members include builders and building contractors (both residential and commercial), consultants, developers, manufacturers and suppliers.

This HIA submission relates to matters raised in the National Workers' Compensation and Occupational Health & Safety Frameworks Issues Paper.

1.1 General Comments.

HIA believes that the time is now appropriate for the Commonwealth Government and the Productivity Commission to assess possible models for establishing national frameworks for workers compensation and occupational health & safety (OHS) arrangements. HIA has clear views about many of the issues canvassed in the Issues Paper.

HIA has for many years been pressing for action on a number of these issues, such as definition of employee and the problems for business operating in an environment of legal uncertainty where risks cannot be accurately priced. In spite of past Reports and investigations (noted in background discussion in the Terms of Reference), governments have failed to satisfactorily resolve many of these important issues. The response to the Bell Report, which in 1997 recommended a single definition of employee, has been particularly disappointing.

2 Executive Summary.

In relation to the issues that have been identified in the Issues Paper, HIA:

1. Submits that Workers compensation and OHS should not be managed together. They need to be maintained as two distinct systems to deal with two different issues. Workers compensation deals with injury management for employees and OHS deals with safe work environments for all persons irrespective as to whether the person is an employee or a contractor.
2. Submits that there should be uniform template workers compensation legislation in each State to ensure uniformity for all core aspects of workers compensation.
3. Supports national uniformity in OHS standards. This may be implemented through the development of national codes by NOHSC that, once adopted, are automatically picked up by the States in the same manner as the Building Code and the State building laws.
4. Strongly urges the adoption of a common definition of employee and employer being:

   (a) For employee

   Notwithstanding anything contained elsewhere in this or any other Act, a person who is recognised as a Personal Services Business for the purposes of Division 87 of the Income Tax Assessment Act 1997 (C'w) is not to be taken to be a worker/employee for the purposes of this Act.'

   (b) For employer

   Notwithstanding anything contained elsewhere in this or any other Act, a person is not the employer of another person for the purposes of this Act if that other person is recognised as a Personal Services Business for the purposes of Division 87 of the Income Tax Assessment Act 1997 (C'w)'

5. Supports the adoption and use of informal alternative dispute resolution procedures in each State. HIA supports the development of internal dispute resolution processes by employers including the use of mediation and conciliation to resolve disputes.
6. Supports the setting of premiums according the risk of the activity with appropriate segmentation of various activities where risks are different. The Building and Construction industry should have different premiums set between domestic building activity and the more inherently dangerous commercial building activity.
7. Supports flexibility for insurers to provide premium discounts for safety record and OHS systems;
8. Supports the adoption of alternatives to Common Law access which provide choice and greater flexibility;
9. Supports, as a general principle, moves towards competition in the workers compensation insurance market. However HIA recognises that there would be

considerable transitional issues in moving towards a nationally uniform, competitive model; and

10. Considers that the Commonwealth should exercise strong leadership in this important area of microeconomic reform.

3 Two Different Goals means Two Systems

Workers Compensation provides an insurance cover and injury rehabilitation system for those who are employed or considered by Governments to be in employment-like circumstances. The system is not designed to be a blanket cover for all persons regardless as to whether they are businesses or not. The workers compensation system is not designed or suited to become a form of business insurance. The management of the schemes and the funds available is an issue that does not affect OHS. Each State and Territory has a different business mix and therefore a different risk profile that may lead for different considerations when stetting premiums.

The OHS system is concerned with the development and maintenance of safe work practices. While the regulation of work practices has historically focused on the employee relationship there is a change to a focus on ensuring a safe work environment. This change means that the OHS system has, as its main focus, the originator of the risk as being the person best able to manage and control that risk. This focus means that the OHS system has to look beyond the regulation of persons who engaged under a contract of employment or similar in employee like relationships to cover all work situations regardless of the relationship between those involved. OHS does not have to consider the financial circumstances of a particular State or Territory, as a work practice is either safe or unsafe.

HIA submits that workers compensation and OHS have a different, although overlapping. focus, and that there is a need for separate frameworks to be maintained. OHS cannot be by impeded an employment relationship straightjacket while HIA strongly oppose workers compensation becoming a form of business insurance coverage.

3.1 Workers Compensation Systems

HIA notes that the Issues Paper calls for discussion on whether the establishment of national frameworks could deliver comprehensive and consistent workers compensation and OHS arrangements across Australia.

The main problems with the failure to have a consistent workers compensation system across Australia is a cost to all contractors who undertake business in more than one State or Territory in understanding and complying with the various laws. A contractor who subcontracts work may not need to cover the subcontractor in one state yet be liable as that subcontractor's employer in a different State. This may lead to extra costs in having double insurance in place to ensure that there is coverage and compliance with the law or a situation where a law is inadvertently broken due to confusion as to when a subcontractor is covered.

HIA supports the need for harmonisation of the workers compensation systems between all States, Territories and the Commonwealth. To this end the HIA supports the Cole Royal Commission recommended that the Commonwealth encourage the States and Territories to continue efforts together with the Commonwealth to harmonise between

jurisdictions the key definitions of the various workers compensation systems, particularly the definition of worker. HIA makes further comment on the issue of the definition of worker later in this submission.

HIA however doubts that the continuation of the cooperative model will produce the desired degree of consistency as is evidenced by the failure to move to a harmonisation of the definition of worker despite this being a repeated recommendation of inquires and reports.

HIA notes recent moves among the eastern States to develop systems allowing workers to work for a limited time in each other's jurisdictions while remaining covered for workers compensation in their home State. This is a very desirable development and reflects credit on those States which have embraced it. However, HIA notes that so long as there is significant differences between the States and Territories over the nature and extent of coverage, mutual recognition will remain difficult to implement. States are also unlikely to be prepared to give up their workers compensation systems in favour of a Commonwealth workers compensation regime.

HIA supports the uniform template legislation model to ensure uniformity for all core aspects of workers compensation. After this model has been implemented it would be easier to discuss mutual recognition. Also there may then be discussion as to whether there is a need or desire to move to a national regime.

3.2 OHS Systems

The current cooperative OHS model has not led to uniformity of work practice throughout the country. There is no need for any divergence between the acceptable OHS standards set by different States and Territories as an unsafe practice in one State would also be unsafe in another State.

As a matter of general policy, HIA naturally supports anything that will genuinely improve OHS in the building and construction industry. However, HIA considers that the solution does not lie in adding to the existing legislation in this field. It is a mistake to believe that safety can be increased by merely making more laws. What is needed is more effective implementation of and compliance with existing laws.

Nor in HIA's view is it a question of whether the law which applies is State or Federal law. The principles underlying occupational health and safety laws are very similar across all Australian jurisdictions, as is the educational message on their effect. Compliance and enforcement of specific occupational health and safety laws is essentially a case by case matter, occurring at a local level. Whether the law is federal or state law, enforcement will have the same requirements and problems.

The suggestion in the Issues Paper that it is appropriate to reconsider the question of nationally applicable OHS laws is therefore unhelpful. HIA suggests that, as with workers compensation, States are not currently prepared to vacate this field, and it would achieve nothing but confusion if both Federal and State OH&S laws placed obligations on companies and individuals.

HIA supports the adoption of mirror legislation by the States that adopt national OHS codes developed by NOHSC as laws in each State in the same manner as the building Code becomes the law in each State. This system would leave the issue of OHS

management and enforcement to each State but would provide the benefit of greater consistency as to the applicable standards to be followed by businesses.

4 Common meaning of worker

HIA supports a common definition of employer and employee that does not interfere with the rights of businesses to contract, is objectively proven and able to be known at the time the contract is entered into by the parties.

4.1 Small Business and the Subcontracting System.

HIA has also for many years fighting to uphold the right of Australians to start up and work as small businesses in the building and construction industry, as an alternative to accepting employee status. This is a right which is perennially under threat from well-meaning (and sometimes not so well meaning) proposals to extend "the protection" and "the benefits" of employee status to trade contractors. As has been demonstrated on a number of occasions, the real effect of such proposals in the housing industry would be to lessen competition, reduce efficiency and take away the freedom of individuals to establish their own successful businesses.

Union criticism of the subcontract system and "illegitimate use of contracting" are attacks from those whose economic and political interests would be best served by the disappearance of subcontracting altogether. Such comments are not necessarily objective or altruistic.

4.2 The need for a consistent definition of employer and employee

Comment is contained in the Issues Paper about the need for consistent definition for employee and employer and the significance of the growth of non-traditional employment. HIA has concern over the use of deeming provisions that seek to categorise those who are not employees as employees for the purposes of workers compensation schemes. These attempts at deeming create commercial uncertainty and cost burdens.

Form is important. The parties to a commercial transaction enter into it in full knowledge that it is in a particular form. They do this deliberately in order to give it a particular effect and would probably not have entered into the transaction if it were to have some different and unintended effect. HIA considers that their wishes should be respected to the greatest extent possible, and third parties should be slow to re-make an open commercial transaction which was fairly and freely entered into. The law should serve and facilitate the activities of society, and not try to force those activities into a particular mould without very good reason.

While it has always been the law that the substance of a transaction is what matters, and the parties cannot make one thing into another merely by giving it a different name, HIA considers that where there is real room for doubt, the expressed wishes of the parties should be given more weight than they often are. The result of reclassifying business transactions on the basis that their substance is different to their form is to work injustice on at least one of the parties and to considerably add to commercial uncertainty and cost.

Often, social objectives are put forward to support a result which is not the one the parties objectively intended. Where the transaction itself cannot be upset on the basis that it is in substance something else, resort is often had to the next step, deeming it by force of law to be something else. This is equally undesirable.

4.3 The problem with deeming

As the late A P Herbert said in 1955, "There is too much of this deeming". Alas, things have not improved since then, and legislators and those who draft legislation in Australia have frequently succumbed to the temptation to try to legislatively re-make reality as they would prefer it to be. This has its dangers. HIA thoroughly concurs in the views of the NSW Interim Report on Workers Compensation Compliance that ".. *over engineering legislation and creating artificial realities which ignore legal concepts of employment could produce a system that is unenforceable"*.

Both Parliament and the Courts should be slow to interfere in commercial relationships by remaking the arrangement which the parties willingly and knowingly entered into. As a matter of general principle, conversion of one type of legal relationship into another, which the parties did not intend, is fraught with difficulty and unanticipated consequences.

It is also bad policy, strewn with unforeseeable hazards, to attempt to force parties for social reasons into commercial arrangements which are against those parties' economic interest. It is an economic truism that one person's pay rise will compromise another person's job. It is equally true that providing costly "protections" and mandating inefficient work arrangements leads to marketplace readjustments to achieve minimum additional economic disadvantages, often with the opposite result to that intended by the policymakers.

4.3.1 Subcontracting is legitimate

There is nothing illegitimate about subcontracting. The housing industry operates almost entirely through the use of subcontract workers. That the subcontract system of working suits both the individuals concerned and the housing industry is manifest. The Australian housing industry is highly efficient by world standards, and produces high quality affordable housing. In 1999 the Productivity Commission found the housing industry's subcontract system to be superior in terms of productivity and efficiency to the union controlled working arrangements that are imposed on commercial building sites. Individual earnings in almost all cases are comparable or better than the earning potential of employees under Award provisions.

It is unrealistic to think that workers are primarily motivated by their legal status in deciding how and where they will work. Classification into employee or subcontractor status is an ex post facto legal construct for government purposes. Workers in the housing industry do not often turn their mind to legal concepts such as these. For the individuals concerned, the primary motivations are economic and not legal. Workers choose to work as subcontractors as it provides them with the maximum combination of immediate earning potential, independence and flexibility in working. Many HIA members can testify that their tradespeople and others are very vehement that they are not prepared to work as employees.

Work arrangements as regulated under Awards would be difficult and counter-productive to apply to contractors in the housing industry. To the extent that there are workers who are really common law employees and are claiming contractor status in the hope of obtaining a taxation advantage, the APSI changes to income tax law will remove any such incentive in the future.

4.3.1.1 Examples

Examples of legitimate HIA member contractor businesses operating as individuals, partnerships and companies, dealing with the public, and contracting wholly or substantially for the personal services of the sole director and employee include –

- Project managers and supervisors;
- Architects and Draftspersons;
- Quantity surveyors and estimators;
- Arbitrators and Mediators;
- Tilers, plasterers and bricklayers;
- Carpenters and Joiners;
- Painters and decorators;
- Concreters;
- Plumbers;
- Electricians;
- Building certifiers and inspectors;
- Maintenance and service tradespersons; and
- Landscapers.

All of the above are occupations which are also undertaken by employees, in the same way as professionals in the medical, legal and accountancy professions. This is neither a sham nor illegitimate.

4.3.2 Worker welfare and contracting.

HIA is a member-driven industry association, which has very many sole trader contractors as its members, and they are very clear that they do not want to work as employees or be treated as workers. They are very focussed on cost efficiency and on operating profitably, and want to run their own businesses without direction from an employer or a union. By and large they joined HIA to enhance their business, and expect HIA to help them defend their right to operate as a business. If they saw any "benefits" and "protection" from having the IR system applied to them, they would be directing HIA policy to seek the extension of the system (including workers compensation) to subcontractors. They are not – quite the opposite.

The push to deem contractors to be workers is not coming from the allegedly disadvantaged and unprotected subcontractors. The push is mainly coming from two areas; from IR academics, who dislike the current untidy situation and fail to appreciate the commercial realities of the housing industry; and from those who are currently operating in and to a large extent controlling the IR system, that is, the unions. The Commission should be slow to disregard subcontractors' own views about what is beneficial for subcontractors.

It is a great mistake to analyse the industry in Marxist terms, on the basis of subcontractors being at all times at the economic mercy of head contractors, and needing 'protection'. The economic cycle in the building and construction industry is subject to particularly violent fluctuations, and only the largest companies (who have very few direct employees in any case) can be assured of a reasonably steady and predictable volume of work. The overwhelming majority of the industry is made up of small and medium sized businesses. When demand is high, subcontractors hold the economic whip hand over these builders, and it is the builders who have a choice of paying the asking rate or doing the work themselves. When demand is low, builders can pick and choose their subcontractor and the price for the work.

4.3.3 Dependent contractors.

The concept of a 'dependent contractor' or 'quasi-employee' is an economic rather than a recognised legal concept. While an improved definition of employee could assist to clarify the present legal position, there is no doubt that there will always be borderline cases.

HIA considers that the recent Federal APSI Income Tax changes will focus attention more clearly on the differences between independent contractors who are genuinely running a business, and others who are not common law employees but are in a very similar economic position. That there are such persons cannot be doubted, although HIA considers that they are primarily concentrated in the information technology industry.

HIA vigorously rejects claims that contractors who mainly or solely have their labour to sell are really employees. There are many categories of genuine business contractor who sell only their labour but are contracted to achieve a result and exercise their own skill and judgement in so doing (for example, barristers, accountants, certifiers, estimators, project managers). As Australia moves more towards a skill and knowledge based economy, the proposition that one cannot be a subcontractor unless one supplies goods is clearly indefensible.

A contractor may be supplying only their labour but not be a "labour-only contractor". It was because of the interpretation of this phrase by the courts that the ATO developed the new approach in Part 87 of the ITAA 1997, dealing with persons 'deriving personal services income', defined as income which is mainly a reward for an individual's personal efforts or skill, and where 'mainly' means more than 50% by value.

Nor is a contractor who derives a high proportion (e.g. 80 per cent or more, as suggested by the Ralph Report) of their income from a single source necessarily in the same or similar dependent position to an employee. It all depends on the nature of the work relationship, and this has now been fully recognised in the APSI legislation.

HIA considers that attempts to categorise all contractors who work solely or mainly for one firm, or who supply only their labour, as 'dependent contractors' or 'quasi-employees' is misconceived, unhelpful and in some cases even mischievous.

4.4 When is Workers Compensation insurance required?

HIA has been working with Workcover Authorities in a number of states on this issue for several years. It is HIA's view that, while underpayment remains a problem, it is not confined to contractors or those engaging contractors. In fact, underpayment problems

seem to exist in relation to many employers and employees, to perhaps a greater degree than in relation to contractors. The Grellman Report in NSW certainly did not consider that any special measures were required to deal with problems of contractors that did not exist in relation to employers generally.

The QLD Government believed a major problem with compliance is a lack of understanding of the changed definition of worker in that State in 2000.

Qld Workcover had taken approach that if you are a sole trader and do not supply the main material then you are a labour only contractor and deemed to be a worker. As a consequence there has been numerous disputes over whether there has been a correct classification of a contractor as a deemed worker. This raises the issue that where legislation provides for "deemed workers" and uses subjective tests, there will always be non-compliance, as compliance then rests on assessment of the circumstances and the application of the definition, where there is always room for a difference between the view of the contracted parties and that of the Workcover official doing an audit.

Many of the problems which HIA members confront deal with the difficulty of deciding whether they are required to take out workers compensation insurance for a particular subcontractor, because of the subjective nature of the definition of "worker" for workers compensation purposes.

Queensland had, and the NT still has, a simple objective definition based on the tax status of the person. Queensland currently has an exemption for working directors of a company, but the future existence of this exemption is under review. The advantage of these definitions was and is certainty; the existence of an objectively verifiable fact at a particular time, rather than the opinion of a public servant or a tribunal given ex post facto and based on a range of partial and subjective criteria.

In response to the difficulties that are noted above the Queensland Government has introduced a range of new tests as to who is a worker and who is an employer to become effective from 01 July 2003. The meaning of worker is to exclude a contractor who is able to pass a results test similar to the APSI results test or who has a personal services business determination from the ATO. More importantly, a person in not an employer of a contractor (whether or not the contractor is entitled to claim under the scheme) if the contractor passes that results test or has a personal services business determination from the ATO.

HIA strongly supports this move by the Queensland Government to more objective criteria that can be established as the time the contract is formed. The new tests should assist in providing greater certainty for businesses in Queensland as to when workers compensation insurance is required. This certainty should also reduce costs for both businesses and the Government.

HIA advocates the use of APSI tax status for this as well as other purposes. HIA's preferred model is to use the status of a contractor under the APSI scheme as a positive indicator that that person is <u>not</u> caught as a deemed employee.

One concern within WA is the Section 175 deeming provisions. Simply speaking these provisions enable an employee of a trade contractor to actually sue the principal contractor for workers compensation. Whilst this may be the crux of a no fault insurance arrangement, it really undermines the concept of responsibility. At no stage does HIA

advocate that an employee should not be covered. We believe that coverage for workers compensation arrangements should not rest at the feet of a party that is not in an contractual employment relationship with another. Furthermore, if a trade contractor is aware that the principal is providing coverage, he/she may end up not taking out suitable coverage for their employees. This is clearly undesirable.

4.5 Definition of Employee

4.5.1 Tax status as the key test.

HIA has for some time been advocating the use of the tax status of a contractor to decide whether they should, as a matter of policy, be treated in the same way as an employee. The reasons for this are that –

- Tax is the primary factor driving business structure, and a contractor who has passed the tax test of what is an independent business should not have to pass any further tests;
- Businesses may be unsure of their common law status, but have no doubt about their tax status as a business and whether they are subject to PAYG withholding;
- Tax status is objective and knowable at any given point in time;
- There can be no dispute or debate about actual tax status, only about whether the person has been wrongly classified for tax purposes, which can affect their status only prospectively, when and if reclassification occurs.

HIA considers that the recent APSI legislation provides a practical test, based on tax issues, of who is running a contracting business and ought not to be treated as an employee for any purposes.

4.5.2 Define Employer, as well as Employee.

"Employee" is a term not generally defined by legislation, since it is a concept developed by the common law. The common law rules to define an employee are well settled, although there are difficulties in applying the rules in marginal cases because the rules are subjective and no single rule has decisive force.

Rather than defining 'employee' or 'deemed employee', HIA believes that it is more practicable to use the APSI legislation tests to define who is definitely <u>not</u> someone who should be treated as an employee and to define someone who is not to be treated as an employer. That leaves the common law untouched, and avoids re-casting the different definitions of a 'deemed employee' or 'worker' and the definition of "employer" in numerous pieces of legislation.

This would have the advantage of simplicity, certainty and clarity. All that would be required is to add a provision to existing legislation that –

(a) For employee

Notwithstanding anything contained elsewhere in this or any other Act, a person who is recognised as a Personal Services Business for the purposes of Division 87 of the Income

> Tax Assessment Act 1997 (C'w) is not to be taken to be a worker/employee for the purposes of this Act.'
>
> (b) For employer
> Notwithstanding anything contained elsewhere in this or any other Act, a person is not the employer of another person for the purposes of this Act if that other person is recognised as a Personal Services Business for the purposes of Division 87 of the Income Tax Assessment Act 1997 (C'w)'

The use of the APSI test in this way represents an administrative attempt to extract people who were actually common law employees from the ranks of those who were claiming to be contractors. It is inherent in the APSI test that the person concerned is not a common law employee since the tests apply only to common law contractors.

This APSI tax status would be conclusive evidence that a person was not an employee and would immunise the possessor against the operation of industrial, Workcover, payroll tax etc legislation. If 'personal services' businesses ere conclusively recognised as contractors and not employees, there would be an objective, verifiable, real-time test which would largely overcome existing difficulties.

While in theory a group of contractors could still exist that were not 'personal services' businesses, in practice this group is likely to be small, as it may not be economic for such contractors to operate in a competitive marketplace without access to business tax deductions. If a person lost their tax status, they would also lose their immunity to other legislation, and would be back in the same situation they are now in, with the applicability of legislation being decided on a case by case basis.

This concept of a 'safe haven' for those contractors who have already passed a fair and reasonable test of what is a genuine business would also greatly simplify enforcement of existing laws.

5 Access to Common Law

Alternatives to common law access could be offered to self-employed persons who are not employees but are deemed to be workers by force of the Act, (for example in the building and information technology industries). An alternative insurance product offering choice, greater flexibility and 'capped benefits' could be negotiated and agreed between both the insured and insurer. A plan could be submitted by the insurer to the underwriter and approved on the basis of a 'no disadvantage test'. Approval of a 'no disadvantage test' could be undertaken by an independent body.

Taking out such a policy would be at the election of the deemed worker. The deemed worker would also be covered under the terms of the policy and not the Act. The proposed scheme would provide choice and scope for:

- reduced premiums;
- reduction in the adversarial nature of the current system;
- less fraud

- greater certainty in timing and delivery of benefits;
- a proactive approach to rehabilitation; and
- a greater capture in the workers compensation net of those that have viewed workers compensation cover, as optional.

It is important to note that the Workplace Relations Bill (in its original form) provided scope for matters such as workers compensation to be handled in the framework of an enterprise agreement. This was on the basis that an enterprise agreement (once registered) would have the same force and effect as the enabling Commonwealth legislation and would override State legislation. HIA supports a return to that position.

6 Alternate Dispute Resolution

HIA supports the promotion of alternative dispute resolution under workers compensation schemes.

The role of the medical and allied profession when assessing injury and providing for rehabilitation needs to be revised to ensure that there are appropriate checks and balances. In a recent WA Review, it was found that the expertise within the medical profession was lacking when dealing with assessments and rehabilitation. This Review made a number of recommendations but these have not been implemented.

7 Premium Setting

HIA supports the ability of insurers to set appropriate premiums and to allow for a proper segmentation of the market according to risk.

HIA believes that it is important for insurers to have the ability to appropriately 'load' premiums. If an employer has a claim, then in the majority of cases, he/she will end up with a 100% loading for the next and subsequent years. HIA currently has members in WA paying premiums in excess of 30% regardless of the nature of claims and whether issues of contributory negligence or even malingering have been assessed. This type of premium loading is not appropriate.

HIA supports premiums which reflect the real risk and punish those with a genuinely poor safety record over time, but not premiums which are increased simply because an accident has occurred and regardless of fault.

HIA suggests that if an insurer has the ability to load premiums to recover payments, this will to a certain extent discourage the insurer from taking the necessary investigative efforts on each claim. It also inadvertently discourages rehabilitation efforts. Finally it is HIA's experience that some trades are incurring the 100% loading when coming into the market. This could pose a significant barrier to entry and unfortunately encourage under or no payment.

The final issue regarding workers compensation is attempting to obtain recognition amongst ABS statisticians that the residential construction sector is different and should be the subject of a separate statistical classification. HIA believes that the residential construction sector has a lower incident rate then the commercial sector. The same

applies to actual contractors working on residential construction i.e. they should not be subjected to commercial level premiums.

8 Competition issues.

As a general principle, HIA would support moves towards competition in the workers compensation insurance market. This is the best way of ensuring that premiums are kept as low as possible, while ensuring that there is a real impetus to innovation and effectiveness in injury management and return to work arrangements.

However we recognise that there would be considerable transitional issues in moving towards a nationally uniform, competitive model. This is an area which will require ongoing consultation with both the insurance industry and State governments.

9 Progressing Reform.

Past efforts at reform in this important area of microeconomic reform have been wrecked on the rock of State intransigence. If progress is to occur this time, the Commonwealth will need to exercise strong leadership in this area. The inquiry should at least canvass the possible mechanisms by which the co-operation of the States could be effectively obtained. Such mechanisms could include -

- funding incentives;
- taxation incentives;
- giving this issue high priority on the agenda of COAG;
- Commonwealth legislation, perhaps under the Corporations power of the Constitution.

Housing Industry Association

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