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National Workers' Compensation and
Occupational Health & Safety Frameworks Inquiry
Productivity Commission
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Productivity Commission Inquiry into National Frameworks for Workers' Compensation and Occupational Health and Safety – Initial Submission

Introduction

SoftLaw Corporation Limited welcomes the opportunity to provide its comments to the Productivity Commission inquiry into National Frameworks for Workers' Compensation and Occupational Health and Safety.

SoftLaw has been using its legislative rulebase technology (LRT) within the occupational health and safety and workers' compensation domain for a number of years. LRT enables better and more efficient decision-making and LRT applications equip non-specialists to be able to interactively investigate, and accurately apply, legislation and other complex policy and/or business rules.

LRT exhaustively models legislation (or sets of business rules) into a network of natural language rules referred to as a rulebase. When users interact with the rulebase via a computer-based interview, the system guides them through the consideration of all relevant rules. On completion of the interview, the LRT application generates a conclusion as to how the legislation or policy applies to a particular set of user circumstances. LRT applications are also able to automatically produce customised documents that set out precisely and comprehensively the reasons for the decision reached.

Based upon our experience, we would offer the following comments against the Issues Paper released in April.

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National Frameworks

One of the key underlying principles we have followed in developing our applications is the need for closely integrated OHS, Compensation and Rehabilitation functionality, which we believe reflects best practice in the management of workplace safety and compensation.

Any proposed national framework should incorporate key interaction points as follows:

- Ensuring that hazards and incidents are reported, investigated and promulgated.
- Providing claims managers with on line access to OHS incident and injury information for evidence purposes
- Through reporting, identify injuries as they occur and allow opportunities for early intervention for compensation and, more importantly rehabilitation, especially for injuries which historically have long term financial and human consequences.
- By integrating actual and estimated lifetime compensation costs with injury trend data, better target injury prevention and management strategies so that efforts are targeted toward hazards and incidents that may cause injuries with long term financial and human consequences.

In addition, we have on a number of occasions looked to compare trends and performances across jurisdictions with little success due to the differences in legislation and policy. Any national framework that promotes more standardisation of data would allow a greater degree of comparison and benchmarking to be undertaken.

Reducing the Regulatory Burden & Compliance Costs

The Issues Paper discusses the regulatory burden and compliance costs that face businesses in all jurisdictions, but concentrates more on the additional costs that may exist where firms operate in more than one jurisdiction. In our view, the key problem to be addressed is the regulatory and compliance costs that result from the inherent, but necessary, complexity in the legislation and policy that make up each of the schemes, regardless of whether a firm operates under one or more jurisdictions.

Rulebase technology is designed to absorb and reliably implement logical complexity. Automating the logical interaction of legislative provisions, and the drawing of conclusions based on satisfaction of legislative criteria, is what rulebases are very good at. They are systems to automate the administration of rules and can substantially reduce the risks associated with administering this complex logic.

Through using rulebase technology, it becomes possible to:

- remove the complexity from delivering benefits under one or more pieces of compensation legislation;
- reduce the complexity for the staff delivering these benefits, allowing them to operate more efficiently;
- allow for claims processing through a number of agents and licensed self insurers while still maintaining accuracy and consistency of decision making;
- significantly reduce the costs of system maintenance as legislation and business rules are changed; and
- allow more efficient and accessible channels, including self service, for businesses to determine their rights and obligations under the legislation.

There are opportunities for considerable administrative savings to insurers and employers through implementing rulebase technology.

Dispute Resolution

The costs of disputes can make up a significant proportion of administrative costs. For example, the ANAO found that over 50% of the cost of administering veterans' compensation was spent on internal and external reviews.¹ The Workplace Relations Ministers' Council Comparative Performance Monitoring report (CPM) found that the percentage of Total Claims Costs taken by legal costs of disputes ranges between 4% and 19% and the average legal cost per dispute ranged from \$3,220 to \$19,637.²

One of the key aspects of improving the efficient and effective operation of workers' compensation arrangements is reducing the need for recourse to dispute resolution mechanisms. The CPM report identified poor quality decision making with inadequate information as one of the drivers of high disputation rates.

While it is unlikely that errors and inconsistencies will be able to be completely eradicated in any environment, technology and techniques for managing, reducing and removing different risks from different aspects of the decision-making process exist.

SoftLaw's experience is that use of technology in the primary decision process can significantly improve accuracy and reduce errors through:

- reducing the reliance upon a staff members understanding of the scale and complexity of the legislation they are applying when making decisions on eligibility and benefits; and
- guiding staff through all the relevant avenues of investigation for each case under the legislation.

¹ Australian National Audit Office, Audit Report No. 29, 2000/01

² Workplace Relations Ministers' Council Comparative Performance Monitoring, Fourth Report, August 2002

The corresponding improvement in accuracy and consistency can lead to a reduction in the level and overall costs of review and appeal activities.

Conclusion

The Issues Paper has identified a number of important areas for discussion as the Inquiry assesses possible models for establishing a national framework for workers compensation and occupational health and safety. Another area that would also merit consideration by the Commission is the role of technology in delivering efficiencies and equity to employers and employees.

The Administrative Review Council (<http://www.law.gov.au/arc>) is currently conducting research into the use of expert systems in public administration. The ARC have recently released its discussion paper *Automated Assistance in Administrative Decision-making*, which provides background to and discussion of the use of rulebase technology in the public sector.

We believe that it would be beneficial for this Inquiry to consider the possibilities that technology may allow when preparing its final recommendations and findings.

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