

Workchoices: A year in review

David Gregory, Victorian Employers' Chamber of Commerce and Industry

Address to CEDA, Melbourne, 30/05/07

Thanks very much Walter, good afternoon everyone and thanks very much to CEDA and you all for the invitation and the opportunity to be able to speak to you this afternoon. Having said that, I do approach my task today with some trepidation. Work choices a year in review, a somewhat daunting task I suggest at the outset, given all that has gone on in the last few months, couple of years. We are in fact now fourteen months on indeed, since the introduction of the changes that we are now talking about this morning. It is just on exactly two years, since the Prime Minister first spoke to Federal parliament, after been elected control of both houses. For the first time, he outlined to the parliament, what the government was intending to do, by way of workplace relations reform.

Just on eighteen months ago, we were summoned to Canberra on a sunny Sunday, to be given an outline by the Prime Minister directly, about just what the government was intending to do, by way of these reforms. So one way and the other, for now, really for two years, we have been involved with a whole range of different issues that have been thrown up in regards to work choices. Ten minutes makes that task a difficult one to deal with.

Secondly though, I have also got some concerns with dealing with this particular topic, simply because of the issues in terms of keeping on top, of just how many new developments are being thrown up, almost every day. For starters at the moment, I am still reeling from the fact that I am not allowed to use the word work choices. I can tell you, a difficult task, when that has represented about every third word that I have uttered over the last two years. Shows what an interesting person I am.

But still the issues keep coming. Last week, it was who is better looking, more attractive, Julia Gillard, Joe Hockey tough questions, particularly for a Kevin Andrews fan like me. But no doubt, no doubt some of these weighty issues, will be some things that the forthcoming member for [Corio] *1:53 looks forward to dealing with in his new role in the future.

To address the subject briefly, to work choices, a year in review. I will make some brief comments. No doubt about it, the changes have obviously been controversial changes. They are obviously also, at the moment, a moving target as the Federal government has moved on Monday night, to introduce its stronger safety net amending bill. Which quite frankly back peddles in its concerns about the public perceptions about the current framework.

That changes that we have been living with for the past fourteen months, have undoubtable based on our experience, certainly enabled more diverse employment arrangements to be put in place.

But I think again, no doubt, I go right back to some of those discussion we had, fourteen, eighteen months ago, they were always structured in a way that we were going to lead to some outcomes that would create the opportunity for public criticism, public comment and would in term, in some respects, make some part of the legislation an easy target. And those outcomes have inevitably eventuated, we perhaps might have seen more of them, if not for the current strong labour market.

But look in terms with my comments today, I am going to leave some of that controversy behind. I think that many of those issues are well documented and well publicised and well known and instead, perhaps throw some other considerations into the mix today.

Like it or not, I suggest that many aspects of the work choices changes and I will continue to use that word. Many of those changes have been particularly significant in a longer term context. They have tackled issues that were deserving of being tackled in terms of an ongoing framework of workplace relations legislation in this country. They have introduced some significant shifts in direction, shifts in approach that go way beyond some of the controversial short term issues that are now being highlighted. And I think have demonstrated, that some of the long standing norms that we have been accustomed to, do deserve to be challenged and we can look at doing this in a different way.

I will give you a few brief examples. The new legislation has undoubtable changed the role and emphasis of awards. And I suggest in response to that, that we have been too tolerant in the past of accepting and at time, complicated, overlapping, often misunderstood framework of award coverage. Awards operating at both an industry and an occupation level, awards which mean as many of you will be aware, that in a small business, with perhaps fifteen or twenty employees. A relatively small organisation like that, can still be having to perhaps deal with four or five or in some cases, even more different awards, applying different coverage to that particular business.

So in the context of the work choices changes, I think sensibly from our point of view, we have seen the focus placed up the individual workplace, outcomes determined at the workplace level between employers, employees, unions, if employees what unions to be involved. Consequently we have seen awards pushed into the background, we have seen an end to the roping in exercises that were a feature of our system the past. We have seen changes trying to limit the scope of awards. We have seen the industrial relations commission award, making powers almost removed completely and we have seen a decision taken to also introduce an ongoing process to review award classification rates and indeed, to review that overall complicated framework, comprised of literally hundreds of different occupational and industry based awards.

Secondly we have seen the introduction of a set of statutory minimum standards. Now we can have debate about what should be contained within the group of standards, but I suggest to you, that those, that change will again be a lasting change. It is introducing a common framework of minimum standards, have application for award covered people, have application for award free people, form the basis of the matters that must be included in agreements. I suggest to you again, a sensible change, a change in approach, which in some respects, the ALP also looks to take up in its current forward with fairness policy, when you look at the ten, so called national employment standards that form part of that policy. So I think that we are going to live in the future, with a set of statutory legislative minimum standards, rather than with that complicated safety net, comprised by the ongoing award framework.

We have seen further changes, obviously also, with agreement making. We now have the certainty of knowing that from the date when an agreement is lodged, it begins to operate from that date. At the same time, there is more onus placed on workplace parties, the employer in particular, to make sure that, that agreement has been developed and complies with the legislative framework. We also

see I think see, I think sensibly that a greater focus within the legislation upon outcomes, which ensure as far as possible, that workplace parties abide by the agreement that they have committed to, don't walk away from the agreement when it suits them.

Next, we see within the framework, additional limitations place around the taking of protected industrial action. I think changes again, introduced in response to a view from many employers, certainly many of the employers that we represent, that it has been too easy in the past, for unions to put themselves in a position where they are able to take legal or projected industrial action, rather than that act, those actions being something that should be more considered, perhaps last resort in a deadlock negotiation process.

Fourthly I point to the changes in regards to the operation of the unfair dismissal laws. Now no argument about it, they are changes which on the one view might be seen as heavy handed by they are changes that have been designed to tackle the fundamental issue that I suggest has been bedeviled and discredited the operation of the unfair dismissal laws. For many years in this country, that fact that that system, instead of focussing on genuine cases, has been one that has been too easy to access and has in fact been accessed by many applications, we have seen many people pushed into that system in the past, who probably shouldn't have been there in the first place.

Next are steps taken towards the development of a national industrial relations system, Tim has already made reference to that aspect of the changes. I think that we would say by any measure, they are a sensible step forward, although maybe still a little clumsy in implementation, with dual powers still being exercised at a state and federal level in all other states, other than our very far sighted state of Victoria.

Next we see the restrictions that have been imposed upon the industrial relations commission. I suppose somewhat ironic in it's centenary years, last year that the industrial relations commission probably coped the biggest whack in its distinguished existence. The commission has certainly been a big loser under the work choices framework. It is no longer involved in minimum wage setting, it is no longer involved in the agreement approvals process, which I have already said. It has dramatically reduced award making power, it has a dramatically reduced role in dispute resolution, it is dealing with a lot less unfair dismissal applications, simply because there are a lot less of them around.

Now I am not by any means and commission basher, despite the number of cases that I have lost in the commission over the years, that has got nothing to do with it. But I do suggest that the commissions contemporary role does need to be reviewed in our modern society, particularly in terms of some of the outcomes that we have seen in the past, some of the quaint roping in exercises that we have been use to. Some of the convoluted test cases, national wage case proceedings that we have been involved in and I think perhaps most importantly looking at some of the endless dispute notifications that were a feature of the system in the past that bought parties before the industrial relations commission in circumstances where those parties should have been prepared, I suggest and able in most of those cases to resolve those matters in their own particular workplaces.

Just some of the examples I suggest of the involvement of an organisation who's role has historically been very important in this country, but does need to be looked at in a different light in the current context.

I want to mention finally, in conclusion, some specific, single issued changes, targeted at the building and construction industry, which I suggest should not be underestimated. This legislation in conjunction with the company changes that have introduced the Australian building and construction commission, have introduced changes to what we have seen as previously long

standing and unresolved issues in the building and construction industry. Now it is not an area in which my organisation is directly involved, but when I talk to people who are directly involved in that industry, they tell me that the genie is very much in the bottle as a result of those changes and I suggest that is where it should stay.

To conclude, the work choices changes are obviously controversial, certain aspects, rightly or wrongly are in the spotlight, some aspects of the current framework are about to disappear. But I suggest to you, that some of the aspects that perhaps underline what the legislation is all about, will have a much longer life, are in some respects, reflected currently in the forward but fairness labour party position and will survive, regardless of which government is elected later this year.

Thanks very much.

End of transcript

Copyright: This transcription is copyright CEDA 2007

Disclaimer: This is a transcript of the speakers and discussion sessions at a CEDA event. Opinions and statements included in the transcript are solely those of the individual persons or participants at the event, and are not necessarily adopted or endorsed or verified as accurate by CEDA. The transcript may have been edited. CEDA does not warrant that this transcript is free of errors and omissions.

Terms of use: Any use of substantial excerpts from this transcript must acknowledge the speaker and CEDA as the source of the material.