Long-term unemployment

The good figures during 2004 which showed overall unemployment falling progressively across Australia have continued to mask the significant pockets of long-term unemployment in Australia. There are still many communities where three generations have been unemployed, and where many residents know nothing of income beyond the dole queue.

There are signs of change ahead. The stigma against employing older workers is at last reversing. The government will try to have the Australian Industrial Relations Commission consider the impact on the unemployed of national wage rises. And the rising national skills shortage will drive further attention to pools of unused labour which might, with adequate training, be mobilised.

Leaderships

Election results transform political dynamics. The persistent questioning of John Howard's future has died away. Clearly he can now choose his own path and will no doubt stick to his maxim that he will remain as long as the party wishes him to lead. And Family First will begin to have some impact on the direction of the major parties if their policies and the compact entered into with the Coalition during the election holds – especially the requirement for Family Impact Statements to accompany policy formation. The major parties have already acknowledged the potency of the constituency which Family First represents.

The new leadership and reform of the policies of the Labor Party will be a key focus of 2005. Whomever the new Labor should be, but particularly if it should be Kim Beazley, Labor will become more business-friendly, more policy-consistent, and closer to the government's position on foreign policy, security and the US alliance. The unknowns are whether the unions will continue to have their current level of influence, and whether Labor will once again adopt a "small target" strategy or choose points of significant differentiation from the Coalition. Polls at the beginning of 2005 showed continued significant drops of support for just about all of the state Labor governments, and this will also preoccupy the party in 2005. Any new national labor leader will have to engage in considerably more consultation not only with federal colleagues but also with Labor state premiers.

The Democrats' new leader will do well to regain even a small measure of relevance in the Australian political scene. The Greens need to regroup, reconsider and better explain the full range of their policies, and to decide whether to shift away from their current position, seen to be close to Labor.

John Howard's once-in-a-lifetime opportunity

Many commentators have observed that John Howard and his government have a once-in-a-lifetime opportunity to shape the nation. The government has an agenda, a mandate, and relatively unfettered power. The attainment of the Senate majority is a profound change in Australian politics. The Coalition's new willingness to centralise power in Canberra may prove even more significant.

Photo: Craig Abraham/Fairfaxphotos

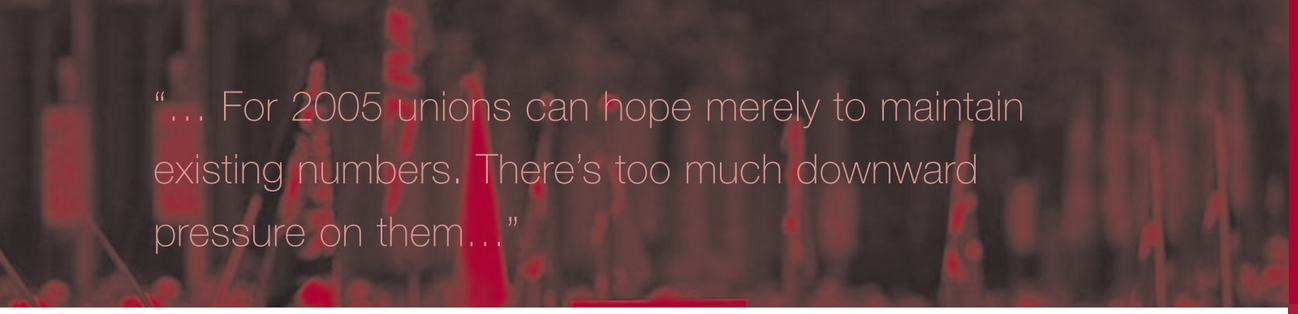
PROFESSOR GERRY GRIFFIN is the pro vice chancellor, Division of Business and Enterprise, at the University of South Australia. His management portfolio includes the Schools of Accounting and Information Systems, International Business, Marketing and the International Graduate School of Management.

Before joining UniSA in January 2004, Gerry spent nine years as professor of industrial relations and director of Monash University's National Key Centre in Industrial Relations. Before joining Monash, he was an associate professor in the Department of Management at the University of Melbourne. He has held visiting appointments at universities in Britain, Canada, Ireland, New Zealand and the United States, and at the International Labour Organisation in Switzerland.

Outside of the academic world, Professor Griffin has worked full-time in industrial relations in both the public and private sectors. He has had extensive consulting experience with a wide range of national and international organisations, and his views and opinions on industrial relations feature regularly in both print and electronic media.

GERRY GRIFFIN

industrial relations overview



The Coalition's surprise triumph in the 2004 Senate vote ensures a continuation of the post-1996 change process. Individual Coalition government changes have not transformed the landscape overnight, but over eight years they have gradually shifted the course of events. Any changes in 2005 will at the very least continue that process. What we don't know is how fast the government will move.

2004 in retrospect

For industrial relations observers, 2004 was a strangely calm year. This is not to say that all industrial relations events were insignificant. Rather, it is to observe that for much of the past decade the dispute over the course of Australian industrial relations has been one of the more dramatic in Australian politics and business. The battles have ranged from formal, structured workplace conflicts, such as the waterside dispute in 1998, through a royal commission and subsequent taskforce in the building and construction industry, to major legal challenges in both the federal and high courts, and to differing legislations introduced by increasing numbers of Labor state governments. In 2004 we did not witness anywhere near the dramatic events of the previous six years.

Perhaps an element of fatigue reform or battle weariness had set in. Perhaps it was the new, lower profile, less change-oriented federal minister. Perhaps it was the recognition that the parameters of the Workplace Relations Act have been largely implemented and that further change was unlikely during the term of the third Howard government. Regardless of the reason, for much of 2004 industrial relations was relegated from its normal spot on the front pages of newspapers. Many of the issues tended to be sectional or industry-specific, or of relevance to just one of the industrial relations parties, such as unions. Four such issues deserve some brief mention.

The end of WAWAs

First is the issue of individual contracts in Western Australia. Following the earlier election of the Gallop government, and the obligatory inquiry into industrial relations, new legislation abolished the Western Australia Workplace Agreements established by the Court government.[1] Their demise led to a heated debate in WA about individual rights and, ultimately, a transfer of many employees in the key mining industry to federal AWAs. This gave a significant boost to such agreements in the federal sphere and helped to keep the debate on AWAs on the boil.

The Cole Commission: Limited impact

Second, the aftermath of the Cole Royal Commission into the building and construction industry, particularly the role of the industry taskforce, has been a series of ongoing battles, both industrial and legal, in that industry. Given that trade unions in this industry have largely retained their power, certainly as measured in the key city-centre projects of Melbourne and Sydney, and in the implementation of the 36-hour week in the industry generally, these battles were hard-fought indeed. Thus, the threat of a possible jail sentence – arising from a charge of contempt during the Commission hearings – for the secretary of the Victorian Construction Branch of the Construction, Forestry, Mining and Energy Union was sufficient to successfully galvanise the support of all unionists, including factional foes and bitter enemies, to his defence.

Unions return to the grass roots

Third, unions generally continued to focus much time, energy and finances on the organising model – a return to the bottom-up model of the movement's pre-arbitration days. This forward-to-the-past model returns the burden of activism to ordinary unionists, who manage processes like contract negotiation with union support. This model of member self-assistance does seem to have helped unions in the short term: after a number of years of dramatically declining membership, total membership seems to have stabilised somewhat since 2001.

BOX 1:

Eight years of change

The election of the Liberal–National Party government and the subsequent introduction of the Workplace Relations Act have emphatically changed the philosophy and structures of the traditional centralised arbitral system. Driven largely by economic factors, the move away from the arbitral model had commenced well before 1996, particularly under the stewardship of Labor prime minister, Paul Keating. The 1996 legislation, however, legally and formally changed the Australian industrial relations system. Among other provisions, enterprise bargaining became the leading method of interaction; a new form of individual bargaining, the Australian Workplace Agreement (AWA), was introduced; the arbitration powers of the AIRC were dramatically pared back; and significant restrictions were imposed on the operations of trade unions. Cumulatively, these changes were a radical departure from the regulatory system that had applied for the previous 90 years.

Of course, support for this new system was not universal. The ALP and the trade union movement predictably wanted less change. Smaller but influential groups, in business, academia and the Liberal Party, on the other hand, believed that the 1996 legislation did not sufficiently deregulate the industrial relations system. They pointed to a variety of issues – for example, minimum wages – where the AIRC continued to play a major, national role. Post-1996, however, this opinion was largely dismissed because practical politics dictated no serious further deregulation. The original Workplace Relations Bill had proposed a more deregulatory system. However, the government lacked a majority in the Senate and agreed to several changes to the Bill in exchange for Australian Democrat votes. Further changes, unless restricted to mechanical or operationally more efficient amendments, were unlikely to win majority support. Thus, for example, although proposed amendments to the unfair dismissal provisions of the Act were introduced almost semi-annually – 14 times in total – their chances of success were nil. So long as the Democrats controlled the balance of power in the Senate, further serious amendments were unlikely to pass.

But government control of the Senate has changed the game.

1996 effects exhausted

Finally, during 2004 it became widely accepted that the federal system of enterprise bargaining specified in the 1996 legislation had, in terms of employee coverage, largely levelled out. Specifically, around 1.5 million employees are now covered by federal enterprise agreements, a number unlikely to increase without significant legal change. Also, there are at least as many employees, and some estimates suggested that a higher figure of at least two million were covered by minimum wage decisions of the Australian Industrial Relations Commission (AIRC). Arguably, enterprise bargaining had reached maximum capacity under the existing rules.

TABLE 1: UNION MEMBERSHIP

YEAR	MEMBERSHIP	DENSITY (%)
1990	2,659,600	40.5
1992	2,508,800	38.6
1994	2,283,400	35.0
1996	2,194,300	31.1
1998	2,057,500	28.1
2000	1,901,800	24.7
2001	1,902,700	24.5
2002	1,833,700	23.1
2003	1,866,700	23.0

SOURCE: AUSTRALIAN BUREAU OF STATISTICS, CAT.NO. 6310.0

Waiting for the election

In retrospect, perhaps the most significant development in industrial relations during 2004 was the sense of waiting for the federal election and more specifically, the role that industrial relations would play in that election. And sure enough, in the lead-up to the election, industrial relations emerged as one of the key battlegrounds. In simplistic terms, the Liberal–National Party Coalition promised further deregulation, the Labor Party promised to re-regulate some collective aspects of the employment relationship, for example, strengthening the role of the AIRC. At the time, however, the industrial relations cognoscenti were largely uninterested. What matter if the Greens replaced the Democrats as the keepers of the balance of power in the Senate? Indeed, this was more likely to enshrine the post-1996 stalemate on change. The election result – control of both houses of parliament won by the Howard government – has opened up a range of possibilities, all of which are likely to see industrial relations re-emerge onto the newspaper front page.

2005 in prospect

Government control of the Senate will not occur until 1 July 2005; nevertheless, positioning has already commenced.

Deregulationists look for change

Perhaps the most interesting manoeuvring has been the re-emergence of the dormant deregulationists, the loose coalition of business people, academics and policy thinkers which has previously exerted influence in groups such as the H.R. Nicholls Society. Their return is best exemplified by the wide publicity given to the demands of a group of 20 prominent individuals, many of them business leaders bearing the scars of battle with unions from the 1980s and 1990s. Excited by the opportunity for change and worried by the possibility that such change may not occur, these leaders and other pro-market forces are attempting to move the parameters of the industrial relations policy debate to encompass more radical labour market concepts, particularly individual methods of settling the employment relationship. More input and ideas from such groups are certain in 2005.

Labor movement under stress

At the other end of the spectrum is the trade union movement. Unprepared for this Senate change, its leaders responded to Labor's unexpected election thrashing with an awkward silence, punctuated by outbreaks of bluster and bravado. The more thoughtful leaders seem focused on internal change more than ever, a strategic response discussed further below.

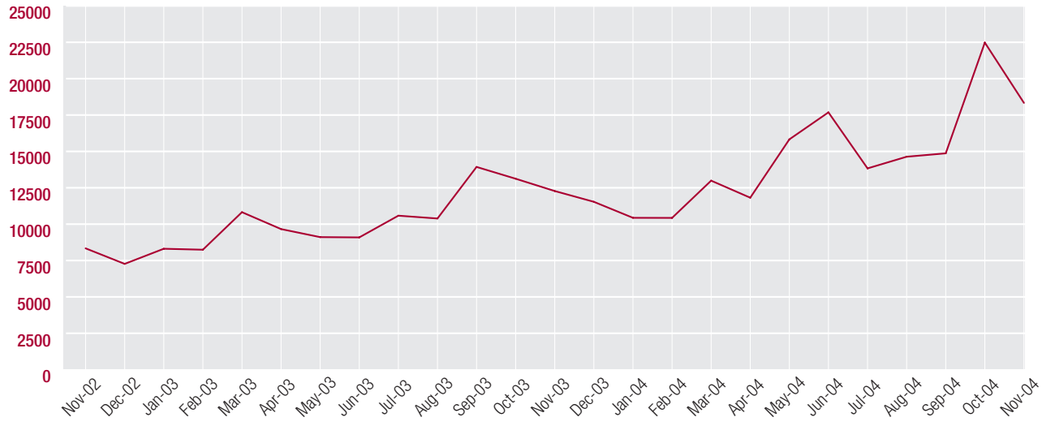
In the middle, more uncomfortable than at any time since the late 1970s, sits the ALP. Mark Latham identified groups such as contractors, small business people and other self-employed workers as aspirational voters vital to ALP electoral prospects. The election at once reinforced that message and robbed Latham of any power to sell it. The result is that Labor's move away from its union roots will occur jerkily, the exact movements and timings unpredictable. At a minimum, the influence of unions seem certain to decline, while policies more supportive of individualism seem certain to emerge. Relations between what were once termed the industrial wing and the political wing of the labour movement are unlikely to be harmonious.

The government ascendant

The new federal government is the key player in any industrial relations scenario for 2005. In this context, it is worth recalling that the present leader is a former shadow minister for industrial relations and that likely future leadership contenders Peter Costello and Tony Abbott have very significant industrial relations experience. Indeed, the apparent leader-in-waiting, Treasurer Costello, was a key player in many of the high-profile industrial disputes of the mid-1980s. The strength of the government's political position would be enough to suggest industrial relations changes; the interests of the Liberal Party's senior leadership suggest significant change is a real possibility.

The government, however, has time to plan quietly. It only assumes control of the Senate in July.

Figure 1: AWAs build slowly – AWAs approved monthly since November 2002 SOURCE: OFFICE OF THE EMPLOYMENT ADVOCATE (WWW.OEA.GOV.AU)



Big bang or stage-by-stage?

The key question is whether the government will pursue tranches of change, or rather seek to introduce multiple changes together.

If the latter strategy is adopted, then we could see initiatives such as making pre-strike ballots compulsory and even making strikes themselves illegal in some industry segments. Union political contributions and internal union activities could also attract regulatory attention. More radically, some elements of the government are attracted to the concept of one system of industrial relations, that is, drawing on its constitutional power over corporations to abolish state industrial relations systems.

More radically, some elements of the government are attracted to the concept of one system of industrial relations, that is, drawing on its constitutional power over corporations to abolish state industrial relations systems.

However, many of these may be next-term agenda items – and even if they arrive in this term, they are likely to form a post-2005 agenda. The first cabs off the rank are likely to be legislation dealing with unfair dismissal, individual contracts, the status of contractors, the role of the AIRC in minimum wage-fixing and changes to the bargaining system.

First cab: Unfair dismissals

The government has a strong philosophical commitment to varying the law on unfair dismissals. It can also cite a study by the Melbourne Institute arguing that changes to state and federal unfair dismissal laws could create 77,000 new jobs.[2] This will be one of the first pieces of legislation passed after 1 July; indeed, the government is likely to pressure the ALP to approve amendments to the Workplace Relations Act prior to this date.

AWAs reach small business

Similarly, the government has a long-standing commitment to provide an individually-based alternative to collective bargaining. Following their introduction in 1997, AWAs were little used. Subsequently, their impact has been limited and their growth has clearly been slow: AWAs currently cover only around 3 per cent of the working population.

The government plans to devote additional significant financial resources to the office of the employment advocate, overseer of AWAs. It will make these legally cumbersome agreements much easier to negotiate and register, and will, wherever possible, make sure that any impediments to AWAs are removed from collective enterprise agreements. Small business, in particular, will be encouraged to adopt AWAs. The impact over the next few years will likely appear small; AWAs will probably not cover more than 10 per cent of the workforce by the end of the decade. Yet they will be one more step in reshaping Australia's entire industrial relations system.

Contractors: Battle rejoined

Employers have embraced the hiring of contractors and "contracting out" in recent years, a development strongly supported by the conservative side of politics. Unions have tried (particularly through the AIRC) to have these contractors made subject to collective law. Quite often they have succeeded. Legislation aimed at excluding contractors from the provisions of enterprise agreements or restricting the AIRC from limiting contracting-out arrangements is highly likely. That will gradually remove this growing segment of the workforce from collective regulation.

Employers have embraced the hiring of contractors and "contracting out" in recent years, a development strongly supported by the conservative side of politics.

AIRC reined in

The traditionally central role of the AIRC in Australian industrial relations has been one of the focal points of attack of the government in recent years. Forced by the Democrats in 1996 to accept a continuing role for the Commission, the government subsequently sought to subvert this role by refusing to replace retiring or resigning commissioners, and when forced to make new appointments by the demand from businesses frustrated at delays within the AIRC, broke with tradition and appointed commissioners overwhelmingly from the employer side. Attempts to interest the community in private conciliation and mediation followed. Despite these attacks, the Commission has survived and indeed flourished in some areas of its operations. Most significantly, it has emerged as the forum for so-called annual Living Wage Cases, which now determine the minimum wages paid to around two million Australian workers. Importantly, over the past two years, increases awarded by the AIRC have been significantly in excess of those advocated by the federal government. This aspect of AIRC operations, given the contentious debates about the relative links between social welfare payments, low-paid jobs and claimed high minimum wages, will receive detailed government scrutiny. At a minimum, the AIRC role in these cases is likely to be significantly circumscribed by government imposition of increased consideration to the impact of its decisions on economics, specifically jobs. The effects of a lower minimum wage remain in dispute. But over time, erosion of this present role of the AIRC could lead to a growth in low-paid jobs.

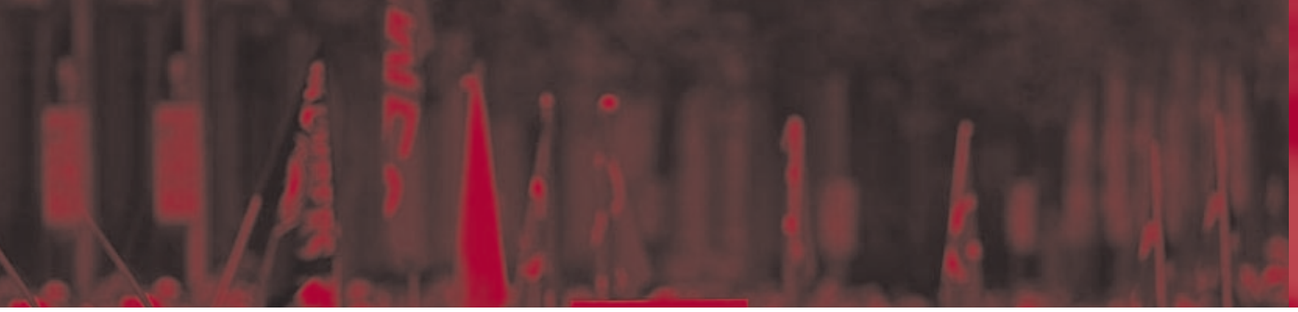
Bargaining system redefined

The parameters and the mechanisms of the enterprise bargaining system will also change. The AIRC's role in bargaining will diminish and some areas of discretion, such as its involvement in dispute resolution mechanisms, are likely to be varied. In particular, the federal government will want to prod the Commission to more readily issue orders to cease industrial action.

But the largest change will centre around the role of trade unions. These registered organisations, despite decreasing membership density detailed above, continue to play a core role in bargaining. The federal government will seek to reduce this role.

Employers' role expands

Conversely, it is most likely that the roles of employers will continue to expand. Over the past two decades employers have gradually assumed the mantle of initiators in industrial relations, and new legislative changes will encourage employers to further increase this role. However, many employers, particularly larger employers and those involved in exporting, have pursued their preferred, integrated, internally-focused industrial relations policies for a number of years. Rather than rely on legislative changes, which mainly affect minima, such organisations have sought employee involvement, commitment and loyalty through internal corporate change. Most such organisations will simply continue their existing strategies. Accordingly, small to medium business and those larger organisations that do not have successful relations with their workforce or unions are most likely to seek change. New legislation will facilitate such a development.



Cole revisited?

The real impact of the Cole Commission may yet be ahead. The federal government, unable to enact legislation for its building industry taskforce, created it instead as an administrative body that most observers expected any incoming Labor government to dismantle. Employers, not surprisingly, have been reluctant to use this structure as a platform to challenge the building unions. But with Labor in retreat and the government now in control of the Senate, the government could entrench the task force and other Cole-related measures in legislation – and challenge employers to use it. And it is conceivable that a building industry employer might follow the example of Chris Corrigan in the waterfront dispute – and rise to that challenge.

Unions look to their roots

Finally, during 2005, pressure on trade unions – from sources such as legislative change, employer actions and changes in the economy – will intensify. Traditional union strategic responses, such as a political strategy of affiliation to the ALP, an arbitral strategy of utilising the AIRC and internal strategies such as union amalgamations, will not work. Commencing in 1994, but gaining serious impetus only over the past few years, the Australian union movement has adopted a policy of grassroots organising, a trend which will intensify.

At best, however, for 2005 unions can hope merely to maintain existing numbers. There is too much downward pressure on them, and their revived organising model is very difficult to sell to members – especially in good economic times, and even more so when employers and the federal government are both trying to convince employees not to join a union.

Overall, if 2004 was indeed a calm year, the storm is likely to occur in 2005.

---

[1] Whatever the merits of the decision, we should mourn the passing from the industrial relations debate of an all-too-rare touch of humour.

[2] Don Harding, The Effect of Unfair Dismissal Laws on Small and Medium Sized Businesses, Melbourne Institute of Applied Economic and Social Research, October 2002.

CEDA publications

Australian Chief Executive
Published three times a year

Sustainable Development
Papers presented to CEDA seminar series on Sustainable Development, Sydney, April 2003–February 2004
July 2004

Innovating Australia
Edited by Ian Marsh
Growth 53, April 2004
$38.50

Water and the Australian Economy
Growth 52, March 2004
$38.50

Australia's Ageing Population: Fiscal, Labour Market and Social Implications
Growth 51, March 2004
$38.50

Better Housing Futures: Stimulating Private Investment in Affordable Housing
Joint CEDA/Brotherhood of St Laurence report prepared by The Allen Consulting Group, February 2004

Australia's Diaspora: Its Size, Nature and Policy Implications
Graeme Hugo, Dianne Rudd and Kevin Harris
December 2003
$22.00

Addressing Global Poverty—Perspectives of the World Business Community
CEDA Counterpart Organisations
November 2003

Work for the Dole: Obligation or Opportunity
Ann Nevile and John Nevile
A joint publication by CEDA; Centre for Applied Economic Research, University of NSW and Anglicare Australia.
Published by UNSW Press
November 2003
$29.95

Industrial Relations Reform: Who Are the Pro-Reformers?
Tim R L Fry, Kelly Jarvis and Joanne Loundes
A joint publication by CEDA, the Melbourne Institute, the Business Council of Australia and IBIS World
April 2003

Beyond the Boundaries: The Contribution of Regions to Queensland's Economic Development
Stephen Jones
CEDA Information Paper No. 79
March 2003
$22.00

Industrial Relations Reform at the Enterprise and Workplace
Tim R L Fry, Kelly Jarvis and Joanne Loundes
A joint publication by CEDA, the Melbourne Institute, the Business Council of Australia and IBIS World
March 2003

Forces Shaping Firms' Decisions to Innovate: Evidence from Large Australian Organisations
Elizabeth Webster
A joint publication by CEDA, the Melbourne Institute, the Business Council of Australia and IBIS World
March 2003

Privatisation: A Review of the Australian Experience
Edited by Margaret Mead and Glenn Withers
Growth 50, December 2002
$38.50

Cost Focussed Firms and Internet Usage
Joanne Loundes
A joint publication by CEDA, the Melbourne Institute, the Business Council of Australia and IBISWorld
December 2002

Are Pro-Reformers Better Performers?
Tim R L Fry, Kelly Jarvis and Joanne Loundes
A joint publication by CEDA, the Melbourne Institute, the Business Council of Australia and IBISWorld
September 2002

To obtain copies of CEDA publications please send a cheque, including postage and handling charge of $3.30 per item, with an order to:
Publications Officer
CEDA
Level 9
275 George Street
SYDNEY NSW 2000
Telephone: (02) 9299 7022
Facsimile: (02) 9299 7020

Publications can also be ordered from CEDA's web site: ceda.com.au
All prices include 10% GST