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8 April 2008

Mr Paul Sheehy
Director
Service Delivery and Performance Commission
PO Box 15335
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Dear Mr Sheehy

I refer to the letter by Dr Leo Keliher received 27 February 2008, and our recent meeting, in relation to

- a Service Delivery and Performance Management Review of the Queensland Government Department of Employment and Industrial Relations
- a review of the Roles and Responsibilities of Queensland Government Agencies in the Administration of Workplace Health and Safety (WH & S) Regulation

Attached are comments by the Ai Group in relation to both reviews.

For further information, please contact Mr Aaron Johnstone, Manager Policy and Public Affairs on 3244 1767 or email aaron.johnstone@aigroup.asn.au.

Yours sincerely

A handwritten signature in black ink, appearing to be 'CR', with a horizontal line underneath.

Chris Rodwell
Director – Queensland

Australian Industry Group Comments on Reviews Being Undertaken of (A) Workplace Health and Safety Regulation in Queensland and (B) the Department of Employment and Industrial Relations

Ai Group is one of Australia's leading industry organisations, representing 10,000 employers across a broad and expanding range of sectors, including manufacturing, construction, transportation, automotive, telecommunications, food and beverages, IT and call centres, transport, labour hire and other industries.

As such, we have a major interest in the two reviews being undertaken by the Service Delivery and Performance Commission.

Our comments below are separated according to the two reviews being undertaken. However, as recognized by the respective review teams, some of the comments can be applied to the issues being considered by both reviews.

(A) WORKPLACE HEALTH AND SAFETY REGULATION

At the outset, it is important to note that industry takes its workplace health and safety responsibilities very seriously.

Ai Group has taken a strong public position on the importance of reducing the workplace death and injury rate, and believes that it is an issue requiring strong industry leadership.

Our organisation also favours a co-operative approach to workplace health and safety; one where employers have access to high quality information and advice on how they can foster safe workplaces, and which supports them in meeting their obligations under the workplace health and safety legislation.

However, the complexity, inconsistency and fragmentation between government agencies in the administration of workplace health and safety are a major regulatory concern for industry.

It is not conducive to helping businesses comply with legislation, or improving organizational workplace health and safety outcomes.

Our concerns are illuminated by case examples from two of our major members, outlined below.

Further we urge the review to consider the potential impact of the COAG commitments to harmonization on the administration of workplace health and safety laws in Queensland.

Case example 1 – industrial gas and engineering sector

One of our major members in the industrial gas and engineering sector in Brisbane has detailed the structure of government administration that has jurisdiction over its industry. This results in significant fragmentation between agencies, a lack of clearly defined scope and boundaries, and a consequent regulatory burden increase.

This administration includes:

- Operational sites are under the jurisdiction of *Major Hazard Facilities and Dangerous Goods Legislation*, facilitated through CHEM services within the **Department of Emergency Services**
- Class 3 dangerous goods (flammable liquids) licensing is carried out by **local government**
- Hazardous substances are regulated by the division of Workplace Health and Safety operating in the **Department of Employment and Industrial Relations**
- Explosives and security sensitive products are regulated through the **Department of Mines and Energy**
- Transportation of dangerous goods is regulated through the **Queensland Transport**
- The manufacturing of medical products (drugs and poisons) is regulated through the **Department of Health**
- Environmentally relevant activities and waste management is regulated through the **Environmental Protection Agency**
- The diversion of legitimate industrial chemicals into illicit drug manufacturing is regulated by the **Queensland police**
- Any agricultural and veterinary chemicals are regulated by the **Department of Primary Industries and Fisheries**

These structures do not take into account national and other state agencies, particularly as the company operates across state borders.

As a result, this company is regulated by **nine separate departments within the Queensland government**. Each requires auditing of its facilities to ensure compliance to the Acts, Standards, and any other specific legislation is maintained. Each of these audits requires a substantial amount of time for preparation and participation; this could be as much as a week of dedicated support. This again increases the burden being placed onto the facilities management, as they accommodate each inspector needs/requirements. This level of bureaucracy is distracting management and staff from the firms highest priority, which is “safety is 100% of our behaviour 100% of the time”.

A couple of practical examples about how this plays out:

- During a recent Major Hazard Facility review, there was upwards of six inspectors participating, with each inspector operating out of different departments/divisions (with vested interests specific to the departments’ objectives). Each inspector is able to issue improvement notices on regulatory infringements identified, but without clearly defined boundaries there is the possibility for multiple notices from various departments covering the same topic. Not surprisingly, this fragmented approach increases the complexity of operational management systems required to meet regulatory requirements. These reviews also need operational staff to participate and burden productivity of the site, due to key individuals participating in the reviews over multiple days.
- Transportation of Dangerous goods is facilitated by Queensland Transport, and under current legislation the transportation of gas products are to be conducted in vent containers or flat bed truck/trailers. Under the new Dangerous Goods code 7 (national code), this transportation could be conducted in taugh liners. Therefore, Queensland legislation does not reflect the national code and taugh liners are

still classified as a non-vent transportations system. This again highlights the differentiation between state and federal regulation.

Case example 2 – food processing sector

An example cited from a workplace health and safety officer in one of our member companies, a large food processing business in regional South East Queensland:

Just recently I have had dealings with the Department of Employment and Industrial Relations and the Department of Transport. I found the experience quite frustrating to say the least. I was trying to find information on what type of license is required for a forklift operator to hold, when driving a registered forklift on a public road. Finding specific information on this topic on both web sites was impossible, and then having to contact them by phone wasn't much better.

Two and a half hours went by and all I got was recorded messages and then with each Department laying blame on each other saying that the information I was given was incorrect. Getting transferred to more senior staff and having to ring each Department over and over again for such a long period of time was quite frustrating and disappointing.

In the end I still don't know what exact condition an operator has to comply with.

Proposed solutions

In considering whether a single administration is desirable for workplace health and safety in Queensland, several issues need to be considered:

- Reforms should result in greater standardization which will reduce the current level of burden being placed on organizations that operate across borders and within multiple government agencies. A national regulatory framework would increase the effectiveness and efficiency of regulations.
- Specialist knowledge on workplace health and safety, particularly pertaining to specific industry sectors, is vital in any structural arrangement. Some legislation and industry sectors do require some specialist knowledge, and it would be very unfortunate if any move towards centralization resulted in a loss of specialist knowledge.
- It would be very useful to have, at least, some sort of picture that fits it all together, for example, in a clear matrix. This would be particularly useful for employers who do not have a detailed understanding of workplace health and safety administration.
- Our experience from other states and territories is that a memorandum of understanding is an important instrument between agencies in the regulation of

workplace health and safety. When made publicly available, these documents also assist employers to understand the interactions between departments.

(B) DEPARTMENT OF EMPLOYMENT AND INDUSTRIAL RELATIONS: SERVICE DELIVERY AND PERFORMANCE MANAGEMENT REVIEW

The Australian Industry Group, together with its members, has a long-standing relationship with DEIR.

This relationship exists across several areas of activity, including:

- *Workplace relations* – Ai Group is a registered industrial organization representing the interests of our member companies (employers) in workplace relations issues. Therefore, we have an interest in policy development and other activities on workplace relations undertaken by DEIR.
- *Workplace Health and Safety* – As outlined above, Ai Group also has a major stake in workplace health and safety. This interest is also reflected in the fact that Queensland Director of Ai Group is represented on the Board of Workplace Health and Safety Queensland.
- *Employment initiatives* – Ai Group manages a range of labour market projects on behalf of DEIR, including the *Experience Pays* project, *Skilling Queenslanders for Work* initiatives
- *General employment and labour market policy issues*

Our comments are set out in response to the two major terms of reference of the review.

(i) Strategic assessment of how well DEIR is managing its performance

In general, we believe DEIR manages its functions in a professional and effective manner (for example, small business adviser program).

We have also found DEIR's senior management to be collaborative and open to input from stakeholders such as the Australian Industry Group. We have also found that the Workplace Health and Safety Board – as a board supported by DEIR and of which Ai Group is a member, is one of the most effectively and efficiently run government boards that we are involved with.

However, we think there are some areas that could be improved. For example, in the area of customer service, we have found the general customer interface on employment, workplace relations and workplace health and safety to be highly variable. For example, we understand that the employer hotline sometimes just “cuts callers off”. This is particularly concerning if employers have a major injury or accident to report, they just get cut off.)

(ii) Key issues affecting service delivery and performance management

In terms of significant issues impacting on DEIR's service delivery, we believe the following are the most important:

- Current skill and labour shortages within the Queensland economy. Skills and labour shortages are consistently cited by our members as being the most critical factor in holding back further expansion of their businesses – even more important than issues such as the exchange rate, infrastructure, interest rates etc.

An integrated approach is critical for the Queensland Government to tackle skills and labour force issues to Queensland industry and the economy in general.

Unfortunately, we believe that the current departmental and agency structures within the Queensland Government mitigate against this as several different agencies have a stake. For example, in the skills and labour market areas, the following agencies have a role:

- Department of Employment and Industrial Relations
- Department of Education, Training and the Arts
- Department of Tourism, Regional Development and Industry

This structure mitigates against a holistic and integrated approach to skills and labour market issues.

As a result, we believe serious consideration should be given to bringing such functions of employment, education, training, industry and workplace relations into a smaller number of portfolios (if not a single portfolio).

- Commonwealth/State issues. There are a range of reforms being undertaken on a national basis that will have a fundamental impact on the work of DEIR. These include:
 - National consistency on workplace health and safety
 - The new Federal Government's Industrial Relations changes
- Heightened expectation by industry for improvements in the quality of government service delivery. A recent survey undertaken by Ai Group in Queensland has exposed serious deficiencies in industry's perception of the quality of service delivery by Queensland Government agencies. Agencies such as DEIR have a significant interface with industry, and need to continually look at ways to improve the quality of service being delivered to customer groups.
- Current economic and employment climate. Over the past decade, the employment focus on DEIR has changed significantly. For example, in 1998, unemployment was at much higher levels, and the emphasis of DEIR's program's (or the Department of Employment and Training as it was then) was to introduce initiatives to "break the unemployment cycle". Now, with a significantly tighter labour market, and record low unemployment levels, the focus of the Department has changed.