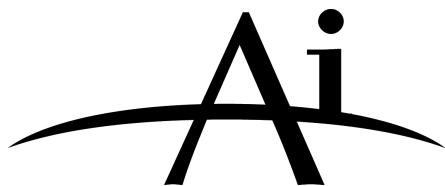


**REVIEW OF
COMCARE SELF-INSURANCE
ARRANGEMENTS**

**SUBMISSION IN RESPONSE TO
TERMS OF REFERENCE**



**AUSTRALIAN INDUSTRY
GROUP**

FEBRUARY 2008

INTRODUCTION

The Australian Industry Group (Ai Group) is Australia's leading industry organisation representing 10,000 employers in manufacturing, construction, automotive, telecommunications, IT & call centres, transport, labour hire and other industries. Ai Group's members operate businesses of all sizes throughout Australia and represent a broad and expanding range of sectors. We provide comprehensive advice and assistance to help members run their businesses more effectively and to become more competitive on a domestic and international level.

Many of Ai Group's member companies operate businesses across multiple jurisdictions within Australia and overseas.

Given the level of controversy surrounding Comcare Self-insurance over the last twelve months, Ai Group welcomes the announcement of this review, and looks forward to actively participating in discussions with DEEWR as the review progresses.

The views expressed in this submission have been developed through two major avenues:

- views of members expressed through day-to-day contact with them as we provide membership advice, training and consulting services; and
- the knowledge of Ai Group's OHS and Workplace Relations Advisers who have extensive experience in the practical application OHS and Workers compensation legislation, together with a detailed understanding of how this legislation interacts with industrial instruments and other legislative provisions relating to the employment relationship, across a broad range of industries.

Employers accept their responsibilities to eliminate or minimise the risk of injury and illness, and the importance of providing those who are injured at work with the social benefits of a modern workers compensation scheme.

However, Ai Group's members consistently nominate workers compensation and OHS as key area of business regulation that are in need of reform. Specifically, in relation to this review, employers who operate across more than one jurisdiction are concerned about the level of complexity, duplication and variations that occur when dealing with multiple schemes and regulators.

Due to the coverage of the Comcare scheme, Ai Group has not had a high level of direct involvement in the scheme to date. However, many of our members are keen to see the development of a nationally consistent approach which will enable them to reduce red tape and compliance costs. Hence, Ai Group has a keen interest in this review, as part of the overall approach to achieving harmonisation through the Federal Government's current focus on cooperative federalism.

A successful and sustainable approach to OHS and workers compensation within Australia must:

- encourage and facilitate the adoption of approaches to the management of OHS and workers compensation that minimise the risk of injury and illness for all those who work in Australian workplaces;
- provide appropriate, and consistent, compliance and enforcement activities by regulators;
- provide fair and equitable compensation to those who have a work related injury or illness; and
- distribute the costs of the systems, including the delivery of regulatory services, fairly, equitably and transparently amongst employers.

A NATIONAL APPROACH IS CRUCIAL

In 2004, the *Productivity Commission Inquiry into National Workers' Compensation and Occupational Health and safety Frameworks* recommended (p.XLII), amongst other things, that a stepped approach to achieving national consistency be commenced, as summarised below:

Step 1 – immediately encourage self-insurance applications from employers who meet the current competition test to self-insure under the Comcare scheme ...

Step 2 – commence, at the same time, the development of an alternative national self-insurance scheme for corporate employers who wish to join such a scheme ...

Step 3 – in the longer term, consider the establishment of an alternative national premium-paying scheme for corporate employers who so wish, including small to medium enterprises ...

In Ai Group's response to the interim report, it was stated (pp. 5-6):

Occupational Health and Safety

Ai Group supports the movement towards a more consistent, preferably uniform, OHS regime as quickly as possible. Our preferred mechanism would be the development of a single national system but we recognise the obstacles, both legal and political, in achieving such an outcome. The recommendations in the Interim Report represent a dual pronged interim strategy to achieve greater national consistency and uniformity. In the absence of the possibility of one single nationally regulated regime for OHS we see the recommendations as a positive step towards such a goal.

The opportunity for national companies that apply for self-insurance licenses under Comcare or an alternate new national self-insurance system, to elect to use the Commonwealth OHS regime is a useful step. Appropriate consultative mechanisms need to be established with employers that elect to be regulated by the Commonwealth OHS regime.

We support the clear specification in the legislation of the objective of achieving uniform national OHS legislation and regulation across jurisdictions. The development of an intergovernmental agreement to work parallel to the objective of nationally uniform legislation, regulations and codes is critical to its success. We intend to urge the States and the Commonwealth to invest the political capital in this process.

Workers' Compensation

The recommendations for workers' compensation concentrate on a staged implementation of a competing national insurance scheme. We welcome the opportunity the recommendations provide for reform through the implementation of an alternate system. There are a number of matters of detail that require further consideration ... Subject to these details being addressed we support the opportunity the recommendations provide to drive reform of workers' compensation on a national basis.

Similarly, we support the parallel proposal for a new national workers compensation body to drive national consistency of the existing State and Territory workers' compensation schemes.

A national approach, though self-insurance or the ability to access scheme(s) which have one set of rules across the country, is essential to the effective and efficient functioning of OHS and workers compensation within Australia.

Employers have generally sought self-insurance under Comcare, or would like the opportunity to do so, to get access to a national system which:

- ensures that their employees receive consistent access to, and level of benefits, irrespective of which state they are based in;
- compliance with only one set of safety and workers compensation requirements is achieved; and
- the administrative burden is significantly reduced.

THE COMCARE REVIEW

The questions asked in the Terms of Reference are important questions. The resulting answers will help to address the concerns raised by some stakeholders in response to the recent granting of eligibility and licences to a broader range of employers than has previously been the case. The answers will also help to inform the deliberations regarding "steps 2 and 3" recommended by the Productivity Commission.

Ai Group encourages the review team to seek objective and robust data on which to answer these questions, many of which will require significant research and analysis.

For example, a question is asked regarding the effectiveness of return to work outcomes. Much work has been done on measuring the effectiveness and sustainability of return to work across jurisdictions with detailed reports provided on an annual basis - Return to Work Monitor and Comparative Performance Monitoring Report. However, these reports have not considered the performance of self-insurers, in either the state/territory jurisdictions or the Comcare scheme. High level comparative data is provided in the Annual Report of the Safety Compensation and Rehabilitation Commission; however, further comparative data would be useful.

Access

The question of access can be partially answered from anecdotal evidence.

As outlined above, for employers who operate across more than one jurisdiction, the variation of requirements between jurisdictions creates unnecessary complexity and significant inefficiency, which does not contribute to safer workplaces and/or better support for injured workers. Self-insurance under Comcare enables an employer to take financial responsibility for their claims whilst at the same time achieving one set of compliance requirements.

In light of this, it seems to be unreasonable to only allow employers who meet the current eligibility requirements to access self-insurance under Comcare. This is particularly the case when a diverse organisation can access the scheme due to the operations of one part of the organisation, whilst those who compete with another major part of the organisation, cannot get access.

Further, it could be argued that it is unreasonable to only provide the option to opt into a nationally consistent scheme to employers who have the financial and organisational ability to participate in self-insurance.

Ai Group would strongly encourage this review to revisit the stepped process recommended by the Productivity Commission, in conjunction with the recently announced review of a national approach to model OHS legislation.

Clearly, a full assessment of the impact of such an approach would need to consider the financial impact on the state/territory based schemes, as outlined in terms of reference (h) and (i).

CONSULTATION THROUGHOUT THE REVIEW

Ai Group would welcome the opportunity to meet with the review team to discuss the manner in which the questions are to be investigated, and to participate in further discussions as preliminary data comes to light.

REFERENCES

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Safety Rehabilitation and Compensation Commission (2007). Annual Report 2006/07.

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