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4 March 2005

Mr Stephen Duffield
Director, Human Rights Unit
HREOC
GPO Box 5218
SYDNEY NSW 2001
criminalrecord@humanrights.gov.au

Dear Mr Duffield,

Re: Discrimination in Employment on the Basis of Criminal Record

I refer to HREOC's recent correspondence inviting Ai Group to comment on a discussion paper entitled "*Discrimination in Employment on the Basis of Criminal Record*". Ai Group welcomes the opportunity to comment on the discussion paper and related issues.

Ai Group

Ai Group is one of the largest national industry bodies in Australia, representing employers in the manufacturing, construction, automotive, information technology, telecommunications, transport, labour hire and other industries.

The Extent and Nature of Discrimination on the Basis of Criminal Record

Ai Group has had very few queries from employers relating to discrimination on the basis of criminal record. It appears that most employers do not find it necessary to ask about criminal records when recruiting staff. Given this, Ai Group is of the view that there is not a widespread problem of discrimination occurring on this basis.

The Rights and Responsibilities of Employers and Employees

There are some industries and occupations where a person's criminal record could be highly relevant, such as childcare workers, police, corrections officers, cleaners, security personnel, cashiers, accountants, maritime and aviation staff. Many organisations operating in these industries comply with industry regulations to address issues relating to persons with criminal records, where such records are relevant to the inherent requirements of their employment. An organisation's primary responsibility in such cases is to its other employees, customers and the community.

Further Regulation is Not Necessary

Ai Group does not propose any changes to the HREOC Act, or other laws that are relevant to this issue. It is our view that the Commission is able to effectively deal with the complaints which it receives of alleged discrimination on the basis of criminal record.

If, through its research, the Commission finds that inadequate progress is being made to prevent discrimination in employment on the basis of criminal record, the appropriate first step is to address this problem through education and awareness-raising, not the imposition of further regulation.

As noted in the discussion paper it appears that some businesses do not fully comprehend their obligations. This reinforces the view that a focus on education is the appropriate approach.

Appropriate education programs are far more responsive to the needs of employers and employees than prescriptive rules. It is essential that businesses retain flexibility to implement recruitment procedures that are tailored to their specific requirements.

Improved outcomes could be achieved through greater resources being devoted by HREOC to education and awareness-raising. Ai Group would be supportive of HREOC developing, in consultation with industry, information tools to assist organisations to review their recruitment processes to ensure that procedural fairness and corporate rights and responsibilities are balanced.

Ai Group is happy to work with the Commission to educate companies about their responsibilities. Joint publications, fact sheets and seminars would be worthwhile. Ai Group maintains close links with its members, and companies rely on Ai Group for advice and leadership. Education and awareness programs which are channelled through respected industry bodies, such as Ai Group, are likely to be more effective than "broad-brush" approaches.

Further regulation would increase compliance costs and other costs for business which, in turn, may have negative employment effects. Ai Group does not support legislative amendments being made which would increase

the already substantial regulatory burden upon employers. It is imperative that employers retain the ability to efficiently manage their businesses.

Should you have any queries about Ai Group's position, please contact Stephen Smith, Director – National Industrial Relations of Ai Group on 02 9466 5521 or myself.

Yours sincerely

A handwritten signature in black ink, appearing to read "Heather Ridout". The signature is written in a cursive style and is positioned to the left of a vertical line.

Heather Ridout
CHIEF EXECUTIVE