

Inaugural Sitting of Fair Work Australia

1 July 2009



Submission by:

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Australian Industry Group

If it pleases Fair Work Australia: -

It is a great pleasure to be invited to address you at this Inaugural Sitting of Fair Work Australia.

Ai Group's Chief Executive Heather Ridout (who is in London) sends her apologies for not being able to be here today and her very best wishes.

It is a historic day which marks the beginning of a new era.

From today we have a new institution and a new Act – both of which will no doubt bring about many changes.

In the new system, Fair Work Australia has an important and powerful role and no doubt your decisions over the months and years ahead will shape the new workplace relations system.

We are confident that wisdom, practicality and fairness – which were the hallmarks of the Australian Industrial Relations Commission (AIRC) – will continue to be the hallmarks of the new institution.

These are the attributes which have led to the AIRC being held in such high regard by the Australian Community – a standing which no doubt will continue under Fair Work Australia.

Over the past 100+ years a uniquely Australian industrial relations system has evolved which has served this country well.

The central tenet of the system has been the notion of a *“fair go all around”*.

While this central tenet has endured, the system has continued to change and evolve. The pace of change has been particularly rapid over the past 15 years with different political parties pursuing their industrial relations ideas and policies.

In 2000, few if any industrial relations practitioners would have believed that we would achieve a unitary industrial relations system in the next decade. But here we are with a unitary system already in place for corporations and most States having agreed in principle to refer powers to achieve a completely unitary system for the private sector.

It is very pleasing that when economic or other circumstances have necessitated change, there has been the capacity to change our workplace relations system to accommodate the needs and wishes of the community.

This capacity to change, whilst preserving the important elements of past approaches, should not be understated. Many other countries do not enjoy similar benefits.

The USA is a case in point.

The *National Labor Relations Act* was signed by President Roosevelt on 5 July 1935 – six years after the start of the Great Depression. The Act established the National Labor Relations Board and created a duty to bargain in good faith with unions which had majority support in the relevant workplace.

These broad concepts of course are familiar but it would not be wise, we submit, for Fair Work Australia to look to US Labor laws for significant guidance on the way that our new, modern workplace relations system should be interpreted.

Over the past 70 years the US *National Labor Relations Act* has only been significantly amended once – in 1947, despite several attempts to amend the legislation.

As a consequence, many of the good faith bargaining principles which have developed over the years in the US were developed a very long time ago.

A number of commentators have speculated that principles that apply under the US bargaining system (or for that matter the Canadian, British or New Zealand bargaining systems) will most likely apply under the *Fair Work* bargaining system. It is likely that similar arguments will be brought before Fair Work Australia.

While such debates are important and appropriate Ai Group's position is quite clear. We see far more relevance in Australian decisions than decisions of the tribunals and Courts of other nations.

These are matters for another day but we hope that in listening to commentaries and arguments, Fair Work Australia will not lose sight of the fact that Australia's industrial relations system has always been unique and that this uniqueness has served the nation well over the years.

We are a nation with a relatively small population, and we need a productive and flexible workforce to maintain global competitiveness, and to continuously improve living standards.

Members of Fair Work Australia are already extremely busy with the award modernisation process and over the months ahead the workload will no doubt increase substantially as a result of:

- The expanded unfair dismissal jurisdiction;
- The new bargaining laws; and
- The enterprise award modernisation process - to name but a few areas.

For our part we will continue to devote substantial time and energy to assist the institution to achieve its objectives, while of course vigorously representing the interests of industry.

The award modernisation process highlights this role. Ai Group has devoted vast resources to the process – hardly a week goes by without another major submission being filed. The process is placing huge demands on our staff and other resources.

However, we are of course conscious that the process has placed huge demands on the AIRC, and will continue to do so over the months ahead.

It is great credit to Your Honour, President Giudice, and to everyone else involved, for what has been achieved. You were given what seemed like an impossible task but the 4 Stage process is on track for completion by the end of this year. The resultant safety net will be enduring.

The Australian Industry Group and its members have been major customers of the AIRC for a very long time

We were registered federally in April 1926 but registered in the NSW Industrial Relations System much earlier in February 1902 – holding Registration Certificate Number 1 in that system.

Today is a historic day for Ai Group as well as Fair Work Australia. Today is the day when the merger between Ai Group and the Engineering Employers Association, South Australia (as approved by the AIRC) takes effect, and from today Ai Group has offices and staff in South Australia.

Ai Group and its members will no doubt continue to be major customers of Fair Work Australia over the months and years ahead.

In conclusion, we have great faith in your capacity and determination to protect the public interest and to deliver a *“fair go all around”* to all parties.

Ai Group’s National Executive, Branch Councils and staff wish all Members of Fair Work Australia the very best in achieving the goals and objectives of the new institution.

Thank-you