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Speech notes (E&OE)

The ALP has said that its yet to be released workplace relations policy will be progressive, but the signs so far are not good.

“No AWAs” is consistent with the position under the Keating Government’s IR legislation but it fails to recognise the huge shifts that have occurred within industry and workplace relations over the past 10-15 years. Australia needs a flexible agreement-making system which gives all parties the right to pursue their preferred form of agreement – individual or collective; with a union or directly with employees.

The ALP’s position on the **National Workplace Relations System** again fails to recognise that time has moved on. While it is great in theory to say that agreement should be reached between the Federal Government and the States, over 100 years of history says that this will be extremely difficult to achieve. Giving back any power to the States to regulate workplace relations would be a major step backwards. Under WorkChoices, corporations currently only need to deal with one set of workplace relations laws. A public debate about the form of those laws is healthy, but it is not healthy to talk about giving power back to the States.

Then we have the announcement of the ALP’s intention to implement a **compulsory collective bargaining system**. This is perhaps the most backward-looking of all the workplace relations policies which the ALP has announced because it seeks to implement a system which is more backward looking than the voluntary enterprise bargaining system introduced by the Keating Government.

It is timely to analyse some of the claims made by the ALP and the ACTU in support of their compulsory collective bargaining model:

Claim One: The enterprise bargaining system under WorkChoices is “extreme” and “unfair”.

- The Keating Government introduced a voluntary bargaining system in 1993 – one where all parties had the right to pursue a workplace agreement if they wanted one and to take industrial action in pursuit of it. WorkChoices has preserved the voluntary bargaining system introduced by the ALP.
- A comprehensive safety net of minimum conditions exists for those who do not have a workplace agreement. Under WorkChoices the safety net consists of a mix of awards and legislated minimum conditions. The Legislated minimum conditions under WorkChoices are generous and have resulted in improved conditions of employment for most employees (eg. 10 days sick leave per year, 10 days carer’s leave per year, 8 different types of parental leave, etc).

Claim Two: If the majority of employees in a workplace want to bargain collectively the employer should be forced to.

- This is equivalent to saying “if 49% of employees in a workplace want to negotiate individual AWAs with their employer then these employees and their employer should be prevented from doing so”. Every employee should have the right to enter into an individual agreement with his or her employer should he or she wish to. In a male dominated workplace, paid maternity leave may hold little attraction to the majority of employees but it may be extremely important to a female worker – far more important than a pay rise. In this example, the female worker should not be subjected to the “tyranny of the majority”.
- Under our current voluntary bargaining system, where the majority (or even a minority) of employees want to pursue a collective agreement, they have the right to take industrial action to endeavour to force the employer to do so. This is the appropriate approach, not some legal obligation to bargain.
- “Requiring” a party to “bargain” is akin to requiring a party to make concessions. Bargaining is conceptually a voluntary thing. Once you legally force a party to negotiate and/or force a party to accept an outcome if agreement is not reached, the process is no longer “bargaining” and the outcome is no longer “an agreement”.

Claim Three: Australia's voluntary bargaining system breaches ILO Conventions

- Australia's voluntary bargaining system, coupled with its comprehensive safety net of awards and legislated minimum conditions reflects the unique characteristics of Australia's workplace relations. Our workplace relations system is currently delivering very generous average wage increases, record low levels of industrial action and record levels of employment. To the extent that the voluntary nature of our bargaining system breaches ILO Conventions, the situation has not changed since the Keating Government introduced the system in 1993.

Claim Four: The ALP's proposed compulsory bargaining system is consistent with the systems in place in the US and the UK

- The ALP's proposed system "cherry picks" elements of the systems in place overseas but fails to adopt key elements of those systems. In the US and UK, unions have very few rights in a workplace (including entry rights) unless the majority of employees vote to support their involvement. In Australia, unions have widespread rights to represent their members even if they have very few members in a workplace.