

Transcript – Heather Ridout, Ai Group CEO, with Paul Howes, AWU, interviewed by Ali Moore, 730 Report Monday 15 September.

ALI MOORE, PRESENTER: With both the unions and employers raising questions about various aspects of the Government's industrial relations regime, I was joined in the studio a short time ago by Paul Howes, the national secretary of the Australian Workers' Union and Heather Ridout, chief executive of the Australian Industry Group.

Welcome to both of you.

Paul Howes, to you first. If the unions are unhappy with the Government's model flexibility clause and they want to use their own clause, as we're seeing at the Campbell's factory, is this just the start of it? There are thousands of enterprise agreements about to be renegotiated.

PAUL HOWES, AWU, NATIONAL SECRETARY: No, well the Government's clause is just that: a model clause. It's not prescribed that it has to be that clause, and in all things in enterprise bargaining negotiations, employers and employees should be free to negotiate over the terms and conditions which suit their business best.

ALI MOORE: Heather Ridout, wasn't the whole idea of having a model clause to try and avoid this sort of action.

HEATHER RIDOUT, AIG, CHIEF EXECUTIVE: Well, indeed. I mean, the AIRC developed this clause, and it was discussed extensively with employers and unions. But really what the unions want is a no-flexibility clause. They want to be able to proscribe in workplaces what you can be flexible about and how you actually get to it. And I think this is an area that we're going to have to watch very carefully, and we've already got a dispute. There'll be other disputes about other issues, but certainly the flexibility clause, which was a compromise around individual contracts built into the whole bargaining over the fair work bill is a bit disappointing if it's come to grief so early.

ALI MOORE: Indeed, it's come to grief early. Julia Gillard would argue the clause has the balance right.

PAUL HOWES: Well I'm sure that we will see employers from time to time want to change the model flexibility clause. And I mean, if AI Group saying right now that they will never seek to change the model flexibility clause, then we will live with that. But I think what will happen over time is that sometimes unions will want to change the model flexibility clause, sometimes employers will, and I think some of your members will.

ALI MOORE: Do you acknowledge that?

HEATHER RIDOUT: Oh, indeed, and I think it can be triggered by either side and it can be terminated by an employee at any time they want, as long as they give notice. But the employee has to - the agreement has to satisfy the better off overall test. So an employee can't be disadvantaged by these arrangements that they instigate with their employer, but they don't of course have to involve a union in those discussions, and the issues can vary quite widely about what the flexibility is. And these are the sorts of issues that come to grief through the collective bargaining process.

ALI MOORE: Is that the ultimate safeguard: that no employee can be worse off?

PAUL HOWES: Absolutely, and that's been the safeguard that we've always been seeking. That's the safeguard that we've lost under WorkChoices. I mean this is a normal day-to-day industrial action, and we always knew that the first industrial action that took place under the Fair Work legislation would be beaten up by some people as, you know, the end of the world as we know it. What's important is that calmer heads prevail, that we find an agreement which suits the employees and the employer. I don't represent the workers at Campbell's soup, but I'm sure that the union, the AMWU, will be seeking that, and I'm sure the employer will as well. I had a lockout last week at Bundaberg Sugar over a similar issue, and we resolved it.

ALI MOORE: Is it a problem for employers?

HEATHER RIDOUT: Well, look, I think it's not a problem, a widespread problem yet, but is signalling that there could be an issue. I mean, I hope we can have a couple of stoushes about it and we sort the thing out. Because it is important that there's individual flexibility there, because out of that, women can satisfy work and family, employers can change their arrangements. But as long as the - the employee has to be better off overall under these arrangements. They can't just be the same.

ALI MOORE: You bring up flexibility, and of course that's at the heart of Malcolm Turnbull's deliberation, or commitment, not to rule out a return to individual contracts under a Coalition Government. Does business want to see that left on the table? Do they want a return to individual contracts?

HEATHER RIDOUT: Well, look, I think the AWA thing is politically very challenging.

ALI MOORE: But is he necessarily talking AWA or is he just talking individual contracts.

HEATHER RIDOUT: Well, I mean, I'm not sure what he's talking and I don't think he's terribly sure yet. He wants to see how these things unfold over the next few months, I suspect. But, you know, we were always supportive of AWAs with the no-disadvantage test in them - the old - the 1996 one. And for a significant but small number of companies, they worked extremely well. When the no-disadvantage test was removed and that safety net was really undermined, that's when they fell into disrepute. And frankly, AWAs or individual statutory agreements offer much more protection to individual employees than common law contracts.

ALI MOORE: So Malcolm Turnbull is right to leave it on the table.

HEATHER RIDOUT: Well, I think many employers will see it as a positive thing, but I think the politics of it in the

current circumstances are very challenging, and frankly, we should be working hard to get the most value out of the legislation 'cause it's very new and there's a lot of aspects that can be very helpful in it.

ALI MOORE: Paul Howes, if I can talk to you about the various issues. If you add them all up at the moment in the industrial relations space, not just the flexibility clause, but more broadly the award modernisation process, the occupational health and safety laws being harmonised, the Building and Construction Commission - if you add all those up, how deep is the angst between the union movement and the Government right now?

PAUL HOWES: Well, not that deep at all. I mean, we have issues that we are seeking to rectify. Harmonisation of occupational health and safety laws is an issue. You know, unions are committed to harmonisation of laws; we just don't wanna see workers left in a worse position. The ABCC is a substantive issue which we'll continue to agitate over, award modernisation is something else that then union movement is committed to, however, we don't want to see workers being left worse off. These aren't gigantic issues; there is no fundamental problem with the relationship between the unions and the Government. We have a healthy ...

ALI MOORE: But they're four very key ongoing issues that continue to make headlines. Not everyone would be as sanguine as you are.

PAUL HOWES: Well, absolutely, they make headlines, and we're honoured that the nation's media is so interested in negotiations between the Government and the unions. There have always been issues between unions and Labor governments. The difference is at the moment, with the current political dynamics, is that the nation's media is far more interested in it than it used to be. I mean, we should, you know, be realistic about this and kinda take a chill pill.

ALI MOORE: But is the ACTU and all its members lockstep with the view that you're now expressing, because that's not what you hear from a number of members of the union movement?

PAUL HOWES: Well, I think you'll hear it from the majority of the leadership of the union movement. Now, from time to time, you'll always have the odd person in the fringe minority that might come out and speak against it. I've spoken out against government policies which I don't agree with. And that's a healthy to do. On the overall picture of what a government does for working people, you would give this government a tick.

ALI MOORE: Heather Ridout, a tick from business across the board as well? You've made the point actually in a recent speech that it's very early days, and it's too early to judge whether it's gonna be a fair system.

HEATHER RIDOUT: Well, I think so. I mean, there's a number of issues arising, including this flexibility one, but also the whole process of bargaining, what information you have to exchange and provide, the use of bargaining in order stop ballots. There's a range of issues, and I think - it is, the jury is still out, and it'll be some time before we see how well this act works, and, you know, the sort of cases and the law settled. I'd also say in relation to the unions approach, I understand sometimes decisions are made, you don't like them, but the OH&S regulation was subject to a big review.

ALI MOORE: The occupational health and safety rules? Yep.

HEATHER RIDOUT: The award modernisation exercise has gone through an exhaustive, you know, process through the Commission and negotiations, etc. The ABCC went through Murray Wilcox's review, and the flexibility clause, of course, is that the latest one was a subject of negotiation over the act. And when you have an independent, a quasi-independent and an actual independent assessment of all those things, and the unions don't like the outcome, they shouldn't just rail against it, we just have to make it work.

ALI MOORE: Paul Howes, are you refusing to accept ... ?

HEATHER RIDOUT: In many of those cases, AI Group would have liked a different outcome, too, to some of it, but we've had to accept a compromise.

PAUL HOWES: And Heather, you've never been backwards in coming forwards.

HEATHER RIDOUT: I have not. But we have accepted the umpire's decisions.

ALI MOORE: But are you refusing to accept the view of independent umpires?

PAUL HOWES: Well, we think some decisions were wrong. I mean, clearly Murray Wilcox's review of construction laws in this country was wrong. When some of your employers have been left worse off, you haven't been backwards in coming forward, and neither should I.

ALI MOORE: So, fair point?

HEATHER RIDOUT: Yeah, to some extent. But I think over issues like the OH&S regulation and the ABCC and in great part, the award modernisation issue. I do believe AI Group and its members have had to accept, you know, a lot of decisions that they perhaps wouldn't like, and have probably abided by the decision of the independent umpire better than the unions.

ALI MOORE: Let me ask you both at this point: you've both justified your positions on the legislation, but Paul Howes, out of 10, right now, for how's it working?

PAUL HOWES: The Fair Work bill? Well, I would give it a seven, because we are yet to see it fully being implemented. But in terms of the main marking points, is it better than what we had? Absolutely. Is it everything we want? Absolutely not. But does it leave Australian workers and their families in a much better position, much more secure position than they were two years ago? Absolutely.

ALI MOORE: Heather Ridout, out of 10?

HEATHER RIDOUT: I wouldn't give it a mark out of 10. I think it's far too early to give it a mark out of 10. Ask me in six months when we've gone through the current bargaining round, we've sorted out a few of these so-called teething problems. We might have a couple of big cases, and then I'll give it a mark out of the 10.

ALI MOORE: Heather Ridout and Paul Howes, many thanks for joining us.

HEATHER RIDOUT: Thankyou.