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Beef-up bargaining to retain fairness for workers

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Value Added - OPINION

Alex Collins and Christian Seibert, from different sides of politics, have a common view on IR changes.

IT LOOKS like **John Howard** is going to get an early Christmas present with Parliament passing his **industrial** relations agenda. While this will please some, as rank and file members of the Liberal and Labor parties, we are opposed to a policy that won't deliver benefits for all: businesses, workers and the unemployed.

We acknowledge the importance of economic reform, but believe a different direction for **industrial** relations change is needed to keep the system flexible and fair.

In this age of small government and economic rationalism, it is difficult to identify an overwhelming objective for government policy. But the fundamental objectives should be the dispersal of power.

Unfortunately, the changes go against this trend. They transfer power from employees and concentrate it with employers by dismantling the award safety net and placing emphasis on individual bargaining at the **workplace** level.

It is obvious the award system is not perfect. It imposes uniform terms and conditions on all parties, restricting flexibility to negotiate terms and conditions that suit particular workplaces. It also places an administrative burden on businesses. But, by effectively dismantling the safety net without reinforcing collective bargaining, employers are in a significant position of power when negotiating conditions.

The five basic terms and conditions in the Fair Pay and Conditions Standard will be all that remain of the safety net. With the emphasis on individual bargaining, employers will be able to dictate unilaterally terms and conditions not protected by the standard. Given larger businesses have many employees, they effectively have economies of scale enabling them

to hire human resources consultants and lawyers to assist with their negotiations.

Take the example of Kemalex, a plastic components maker. It hired **workplace** relations expert Ken Phillips to advise on its independent contractor arrangements and engaged highly paid lawyers to argue its case when employees took **industrial** action.

Workers generally have only themselves and their **union** to represent them. It is unlikely workers on the minimum wage will be able to hire lawyers to negotiate for them. That is why collective bargaining is so important. It equalises bargaining power for a fairer outcome.

It is also important to ensure bargaining actually takes place, rather than employees being presented contracts on a take it or leave it basis.

The Federal Government acknowledges such differences in bargaining power. Why else would it support legislation that allows small businesses to bargain collectively with big businesses (note that unions will be specifically excluded from this process). But for some reason the Government is less supportive of collective bargaining when it furthers the interests of employees.

New policies are needed to reinforce collective bargaining. First, the system in the United States needs to be implemented in Australia. In the US, at any **workplace** where more than 50 per cent of employees want to bargain collectively, their employer is required to bargain in good faith. In Australia, the employer can simply refuse to negotiate.

Second, collective agreements need to be recognised for what they are - contracts. The new **industrial** relations changes will allow employers to offer individual agreements to employees covered by a collective agreement, effectively undermining the collective strength of the employees. Besides being unfair, it also contradicts the basic principles of contract law that state if you make an agreement you have to stick to it.

We recognise that to maintain strong growth and productivity Australia requires a flexible **industrial** relations system. But we also understand the realities of uneven bargaining power and the need to reinforce collective bargaining to ensure fair outcomes for workers.

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