

Workplace Relations Framework
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Submission to the Productivity Commission's inquiry into the Workplace Relations Framework

ALAEA Position on Union Membership Liberalisation

The Association believes the government has a unique opportunity to align the existing antiquated, bureaucratic and inefficient union membership rules system with modern laissez faire market based principles.

Such change is long overdue as the current restrictive rules limiting union membership to assigned sector associations are overly complex and limit the freedom of choice of workers to choose the representation they believe can most effectively, transparently and appropriately represent their industrial interests. In contrast, the existing union membership rules system imposes artificial constraints that limit freedom of representative choice and favours large unions at the expense of smaller more flexible and adaptive associations.

Liberalisation of restrictive union representation regulations conforms with the noted US economist Eugene Fama's efficient-market hypothesis (EMH), which illustrates unequivocally that the price of an asset (or in this case a service) is an accurate reflection of all available information – a theory that itself drew on the fundamental market efficiency principles developed first by Adam Smith and later Fredrick von Hayek. This contention, applied to a service based environment, is simply an extrapolation of Farma's theory, which now informs not only private and institutional investment decisions throughout the world, but also is used to determine economic policy and financial regulations globally. The Association believes the current bureaucratic membership rule structure contradicts these efficiency principles and that liberalisation of restrictive membership rules will similarly release otherwise market constrained efficiencies, which will benefit both workers and representative associations alike.

The first-principle referenced here is one of laissez faire efficiency, which we believe can be extended to influence the efficient and transparent representation of industrial interests. These are principles that underpin much of the modern development of economic theory and guide both social and market policy positions in advanced economies such as Australia. It is incongruous that our wider economic and social evolution should be guided by—and benefit from—such efficiency principles but that the system of industrial representation should lag so badly behind or be subjected to inferior benchmarks for efficiency.

In the view of this Association, existing membership rules for industrial representation are not only misaligned with such wider market based efficiency principles and full freedom of association rights, but may even promote conflict and industrial disharmony by incentivising large unions, with significant resources, to utilise the complex membership rules to poach members of smaller unions and for those unions to be disadvantaged in that process by the cost and complexity of defending their interests under the existing system.

This was, for example, a contributory factor during the Qantas shutdown in October 2011. This significant dispute was not about pay and conditions, which had already been settled prior to the shutdown and could have been avoided if true free market unionism had existed and membership demarcation lines removed. In this case the Qantas shutdown, which related primarily to job security issues, could have been avoided by the ALAEA being permitted to represent our traditional work role in AME negotiations—something that we were prohibited from doing under the current system. Removing membership restrictions would facilitate such an outcome and diminish a lever for industrial unrest.

To achieve these outcomes the ALAEA calls for absolute freedom of Association; that a person be permitted the basic freedom of association to join any union they value and chose; that a union be free to represent any worker it can convince of its value proposition. This would give the worker the ability to join the union of their personal choice rather than being restricted to joining only a union dominant within a particular industry or craft. Rights would be transferred from their current focus on the union body's interests to the natural person and a worker could thereby join the union they believed best represented their interests and provided them with the most efficient and effective service. This restores personal choice based upon criteria a worker values such as a performance, transparency and responsiveness to individual needs.

To achieve these outcomes the ALAEA calls for the following reforms:

- We recommend absolute freedom of Association, that a person be free to join any union and unions be free to represent any worker;
- We recommend the process to change union coverage be administrative only and apply without restriction.

Yours Sincerely

Stephen Purvinas

Federal Secretary