



THE UNIVERSITY OF
MELBOURNE

The Presiding Commissioner
Regulatory Burdens on Business Review
Productivity Commission
GPO Box 1428
Canberra City ACT 2601.

21 August 2008

Dear Sir,

**Draft Report on Regulatory Burdens on Business - Manufacturing and Distributive
Trades
Recommendation 8.3 *Equal Opportunity Reporting***

I refer to recommendation 8.3 *Equal Opportunity Reporting* in the Draft Report mentioned above which recommends that the reporting requirement for reporting under the Equal Opportunity for Women in the Workforce Act (EOWW) be changed from annual to biennial.

I am strongly opposed to this recommendation because it would undermine the commitment to gender equality in employment that has been required by the Parliament of Australia of all companies employing more than 100 staff. I ask the Productivity Commission to rethink its recommendation and to withdraw it.

A regulatory burden is only burdensome if it is unnecessary. The annual reporting requirement for workforce composition and equity planning is essential for the EOWW Act's objectives to be effectively served. Diluting this requirement would make it much more difficult to achieve the goals of this policy, by taking gender equity out of the regular annual schedule of employment and workforce planning and consideration of medium and large companies in Australia. It would signal that EOWW was not seen as an important social goal.

I have taught and researched employment discrimination law for over fifteen years, and it is clear from the case law and empirical studies in several countries that employment practices will not change to provide gender equality voluntarily, but that pressure needs to be exerted by law to ensure that change occurs. Prohibiting discrimination, for example through the Sex Discrimination Act 1984 targets only individual cases and is not enough to change systemic aspects of employment that disadvantage women, so more legal support for action by employers to change their own practices is needed. The EOWW Act provides "soft touch" regulation, in the form of reporting only, as an incentive and encouragement for employers to identify and act on gender inequities in their own workforces. The touch is a very soft one and if it is made any more soft, then it risks becoming completely ineffective.

The basis for this recommendation in your draft report (at 164-166) entirely fails to address the importance of the objective being served or the effectiveness of the reporting requirement. There is no discussion of the rationale for this policy or its importance, or how effective or ineffective the requirement is and why. The draft report simply seems to assume that the reporting requirement has no substantial justification. But data in Australia are clear on women's relative poverty compared to men, throughout life, and especially in retirement. A substantial part of the cause lies in workforce practices that confine women to lower level and lower paid work with less opportunity for advancement. These are precisely the habitual practices that the EEOW Act targets and which the reporting requirement is designed to challenge.

The report's failure to engage with the rationale for this reporting requirement suggests ignorance of or disregard for the policy and its rationale, and thus a failure to properly assess the importance of the regulatory burden it imposes. Ignorance of the significance and role of EOWW regulation should not be expected of a public commission, and is quite contrary to the understanding displayed by the Commission itself in its report on the Disability Discrimination Act (2004).

The EOWW Act already allows for less frequent reporting by companies that are progressing well towards gender equity. There is no call to weaken the pressure it exerts towards equal opportunity for women at work by reducing the reporting requirement. The function of workforce monitoring, analysis and consideration of equity issues should be undertaken as part of an effective HR strategy in any event, and so cannot be seen as an extra burden on business.

Yours sincerely

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