

CORRECTED VERSION

ECONOMIC, EDUCATION, JOBS AND SKILLS COMMITTEE

Inquiry into portability of long service leave entitlements

Melbourne — 9 November 2015

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Mr Peter Strong, Chief Executive Officer, Council of Small Business of Australia.

The CHAIR — Thank you, Peter, we might as well start. I need to read this for you as a procedure. Welcome to the public hearing for the Economic, Education, Jobs and Skills Committee’s Inquiry into portability of long service leave entitlements. All evidence taken at this hearing is protected by parliamentary privilege. Any comments you make outside the hearing are not afforded such privilege. Hansard is recording today’s proceedings. We will provide a proof version of the *Hansard* transcript so you can correct any typographical errors. We ask you to give us whatever you would like to say, and then in the end members will have questions. Please state your name.

Mr STRONG — Peter Strong, CEO of the Council of Small Business of Australia. Thank you for the opportunity as always. It is always good to have this sort of opportunity. I should start off by saying that I have gone back to my members, and our members associations. We do not really have voting small business people; the small businesses are members of our members, so we have people like Fitness Australia with 30 000 members and the Real Estate Institute and what have you. Between our members they get out to something like 450 000 small businesses that are out there, and that is around Australia. Except, funnily, a lot of our members are based in Victoria, which is nice. We get good solid comment from them, as you can imagine.

One of the things they are all quite shocked about is that there is even this inquiry, I have got to say. A lot of them were not aware of it, and I have gone to them and said, ‘This is the proposal’, and they do not understand it. They just see it as red tape and as problematic; they just do not get it. They understand it in construction. That is an industry where it has been around for a long time where people by its very nature change jobs as a carpenter rather than going around with the one company, even though that may have changed with the domination by bigger and bigger businesses, which we tend to have. They understand that, but as one of them said, this is on top of paid parental leave—where we are the pay clerk for the federal government, and they have sent the money to us and we have got to pay our people—and on top of superannuation, which in a lot of cases is just ridiculous red tape which is unnecessary because of the GST. Depending on the industry you are in, there are a lot of other things imposed upon small business now.

A lot of things over the years have been designed for big business by those that understand big business and big unions. That is not an attack on big business or big unions. That is the nature of it, and of course they do not have the same concerns we do about some of the more intricate bits of red tape, and some of the more interesting behaviours and associations we have with our employees. You know, we are next to them in most cases. They are there, and there is nothing worse than standing next to someone who is miserable and miserably paid. Although they might find out about that as well, depending upon how business is going.

Certainly what has come to me is that long service leave as we know it has been there for someone who has worked for a company for a long time, and it has been set out what that time is. We know the history of it—where it came from and where it exists. As one of them said, if we have portable long service leave across all industries, across all businesses, it is really an odd thing for them. They say, ‘Well, that means that someone is always getting paid long service leave. If they work for me for 3 hours, they get long service leave’. They do not collect it until they have worked for however the system works—whether they have to work 10 years in a row or whether they can work for 10 years over a period of 30 years or however it works out; they get it.

If they work for a business for 3 hours, the businesspeople are saying, ‘Well, that is actually my money currently until they get the long service leave, until they get to seven years or whatever it is in the award, or 10 years. It is actually my money and it is not theirs, even though I should bank it, even though I should cover for that the same as you do for anything else. It is my money. If this comes in, it is no longer my money. It is no longer my money to give to someone as a reward for being with me for a long time—for hanging around while they get lousy wages as an apprentice and then together we build the business and we pay for it’. We do those sorts of things and they know if they hang around long enough they will get some money or they will get time off rather, or they might get paid in lieu or whatever it is, however you work it out. But with this change, it is no longer my money or the employer’s money. It is no longer the employer’s family’s money; it no longer belongs to them—it is something that belongs to somebody else.

With superannuation, we understand that more than anybody else. Superannuation is part of their pay. The trouble with the system at the moment, especially for younger people, is they get confused by super because they are not close to it. We have a proposal to change that, but that is not part of this. With long service leave, it is not their money. It is not part of their pay until they reach that point. Together we work around that, depending upon how you are and who you are. That is a concern. If someone works for an employer for 3 hours and gets caught with their hands in the till, knocking off something, they can get the sack and then pick up long service leave. There are real problems around exactly why that happens.

Anyway, there is a feeling out there that there is a lack of respect for small business. People have said that on top of public holidays and those sorts of things there seems to be a belief coming out of government in Victoria, and I am not from Victoria, that it is not about the economy or employers or anything like that. There is a different aim in employment than wages et cetera. There are the public holidays and now there is the long service leave. The scenario that came up about someone who works for an employer for a day, a week, 3 hours a year, then steals money or does something wrong or whatever, and they still pick up long service leave, and that has to be a problem.

The other issue that we ask questions about is what happens to the money. At the moment it is my money as the employer, but under this process it is no longer my money, I am assuming. If it goes into a fund somewhere—and that is red tape and it will be interesting to see how that is managed—and that person does not go to 10 years, what happens to that money? Does it go back to the employer who owns that money? I do not know how you would manage that. So there are a lot of questions that my members have around this that they say should be asked.

The CHAIR — Thank you for that, first of all. How would small business be affected differently by portable long service leave compared with medium and large businesses?

Mr STRONG — I think super is a good example of it. With super at the moment for medium and large businesses, you give it to your pay clerk and they do it. They get paid to do it. With small business, I have always said the only people in the superannuation industry that do not get paid for their role in superannuation are the people who run their own business, because they do it on a Sunday or on a Friday night—or they pay someone to do it. The only person in the superannuation industry who can get fined for not doing their job is the small business person. Nobody can get fined in big business. Everybody should get paid for their role in superannuation—of course they should—but they can get caught out for being illegal or something, but they will not get fined as an individual; the company will get fined.

When I was an employer, and I stopped being an employer about two years ago, I could get fined. It would be me who would find the money from my pay packet that I would send off. That is one big difference. It is the individual who is being impacted by this. It is not big business that just adds a bit. Not that they will like it, but it would add a bit more work to their pay team. They would just say, ‘Would you go and do this?’. I would have to find the time and the money potentially and make the effort to go and do this.

The other impact of course is the increased cost. Psychologically you turn around and you think, ‘Why am I doing this? Can someone tell me what the return for me and my family is?’. In small business we are not a group of shareholders. We are a family or an individual. With this change, I will pay this extra money. I will not see anything for it, except the theory that in 10 years time or every now and then someone will be rejuvenated and they will be bouncing around and they will be all wonderful. Do I get a benefit from that? Of course I am going to say, ‘I don’t’. This is something that has come out of left field that makes no sense to me at all. Superannuation made sense; a whole range of things made sense; long service leave makes sense in the context of Australia, one of the few places that really has it. It makes sense. It is part of our culture and has been for a long time. But it has been about long service for an employer or perhaps in the construction sector. It has not been about a reward for working for a certain period of time, no matter where you work.

As they say, ‘If someone works for me for seven years and I pay all this long service leave, then they go and work for somebody else, then that other person gets the benefit of rejuvenation’. We know the theorists will say, ‘Yes, but you will get the benefit from somebody else coming and working for you who

has been with somebody else for seven years'. I love saying, 'Show me the proof. Show me the study. Show me where it says small business benefits from this'. If I could add, Chair, I have gone through this with superannuation and paid parental leave and those sorts of things—and as I say we have no problems with paying parental leave et cetera—but when people say small business will benefit, I love saying, 'Give me the proof'. There is no proof. There is proof that big business benefits, because they have done the studies. But there is no proof to say that person down the road who is in a fish and chip shop who employs one person benefits through a productivity gain. There is none at all, because there is no gain. So this is our problem with this again. It is not of benefit to the small business sector.

Mr BOURMAN — Has the Council had any time to do any modelling on what the actual effect would be if this were to pass, to come to fruition—the portable long service leave—what it would do to small business?

Mr STRONG — If I can say, we have the Australian Chamber of Commerce and Industry and VECCI and they do some very good research. The nature of COSBOA is we do not do research unless we get some money. All our members are from small business, so we do not end up with a lot of money.

Mr BOURMAN — Has anyone that you are aware of done any?

Mr STRONG — From what I can see, ACCI has done some studies into it—the Australian Chamber of Commerce and Industry. But again it is very problematic. To me, it is a benefit to an individual for working for a long time for a company. The benefits to the company—they say, 'Someone is rejuvenated'. I am not sure about that. Four weeks is often plenty of time to rejuvenate. Some holidays of course do the opposite. We all know that. We have been on holidays.

The use of long service leave, some people will take it here and there. That is fine; I have no problem with that. I have a problem with changing the process and the reward effort. On that situation, I do not think there is anything to say that we get benefit from it.

Mr BOURMAN — But is there anything to say we will not get a benefit, is the question I guess?

Mr STRONG — Maybe as you get closer to long service leave and claiming it, you will think that you will stay with this employer for a few more years.

Mr BOURMAN — I am thinking more of a financial or tangible sort of thing.

Mr STRONG — There is none. There is absolutely none at all. For small business it creates some problems because they are not experts. So as someone gets closer to long service leave, you think, 'Gee, I had better go and find this money somewhere'. People say, 'You should do this. You should save it. You should have a special account. Yes, you should do lots of things. But please do not make more 'shoulds'. Let us remove some 'shoulds' that small business should do and stick with other things.

What really worries me with superannuation and other things is it takes our eyes off job security, and that should be no. 1. Job security and safety should be the things and they are the things that we want to focus on in small business. A secure job should be what I want as a worker, and a safe place should be what I want as a worker. With the other stuff, it depends upon the industry and it depends upon the value you put on it, but every bit of red tape you throw in there gets in the way of those things.

Some of my members say—who knows what would come to fruition—'Why would you employ someone? This means you really should contract them. You should really work your way towards contracting because employment means superannuation. Long service leave, where did that come from?'. I have to say that with the growth in public holidays—the ACT, Western Australia and Victoria are examples of that—you think, 'I don't even know what public holidays we are going to have next year. How about I just contract someone and it is not an issue for me'. We do not want that. We do not want to become a nation of contractors. There are reasons why I would like to work for someone rather than contract for someone, but let us not make it complicated so that I claim contracting is easier, which it is.

Mrs FYFFE — Recognising the wide diversity of small businesses and the areas that they operate in, is there any particular sector that you think would be adversely affected by portable long service leave coming in?

Mr STRONG — One that occurs to me—thank you for the question—is hairdressing. The CEO of the Hairdressing Council is awesome. They talk about and there is a culture in hairdressing of training, that good hairdressers are forever retraining and reskilling and then they like to keep their people. The reward for the employer is all the effort and everything that they put in is rewarded by that person staying. The CEO runs her own salon. I think she said that 80 per cent of her employees have been there for more than 15 years. Obviously she has a turnover because people will come in and if they do not suit, I have to say she turns them over, but that is the way it works. What she hears from the industry is that people will change jobs and they will walk into another job with all this training for someone who has never put the effort in.

That is a real problem in that particular sector at the moment, the home-based businesses that are growing up, too many of whom do not pay tax, they do their haircuts at home, they do not contribute to the training sector, and then they will take someone on and pay them and they have given nothing to the sector. All of a sudden the long service leave is not something you can offer someone and say, ‘Hang with me. There’s a whole range of reasons—we give good training, blah, blah’, and after 10 years or whatever it is in that sector you get 13 weeks off. Now you are going to get it no matter where you are, so it is not actually a reward for anything—except hanging around. Indeed, you can go from hairdressing to retail to somewhere else, all around the place, and then come back and still pick up the reward for hanging around. So that would be one sector.

Certainly restaurant catering is another one where skills are a very important area. I know pharmacy is another one where you have to maintain what you understand about drugs and all those sorts of things. So if you leave the sector and come back in again and you have to go through retraining, why is there a reward for being in employment for 10 years when you are not in what it was meant to be, with one employer?

Mr NARDELLA — Understanding what your view is, which is that any regulation is bad regulation unless it is in health and safety and one other, if a long service leave scheme were to come in, what elements would you like to see in it?

Mr STRONG — Portable long service leave?

Mr NARDELLA — Yes.

Mr STRONG — There is nothing that we can see in it. Seriously, my members just cannot believe that we are even thinking about it.

Mr NARDELLA — So if a situation arose where a portable long service leave scheme were to come in, you would just oppose it, you would not engage in how it would best be put in place to suit your members? For example, one of the things that you said was if somebody works there 3 hours a week, why should they get long service? Should there be minimum standards, should there be minimum hours or a minimum rate of pay? That is what I am trying to get at. You either take a position where you put your head in the sand—this is all terrible and the world is going to fall over, whatever—or you get engaged in the process to actually look after your members. Are there any aspects at all that you would see should be in a portable long service leave scheme for small businesses?

Mr STRONG — The aspects we think should be in a long service leave scheme is that you work for the same employer for a certain time—the current system. Having your head in the sand, I would come back and say the people who are ignoring the problems that this will create have their heads next to mine. We could have a good conversation under the sand. That is what often happens: people come up with these ideas and they have their heads in the sand. If you go and work in a shop somewhere—there is nothing that we can come up with that makes sense, because it will involve complication if we say there should be minimum hours and all these sorts of things. It does not work either way. It does not work the way we

have it. As I say, someone working for me may steal from me—it does happen—and a certain number of employers are dodgy. We work with the Fair Work Ombudsman and the tax office and others to get them, and a certain number of employees.

Mr NARDELLA — Employees and employers, there are dodgy ones—absolutely.

Mr STRONG — The thought that one would get a reward after they steal from you—or not a reward, but they would get long service leave.

Mr NARDELLA — We might call it an entitlement.

Mr STRONG — It is an entitlement at the moment, after a certain amount of time.

Mr NARDELLA — With one employer.

Mr STRONG — Yes, for one employer. What we are saying is if they steal from that one employer, they still get the entitlement, at the moment. If you work for 10 years and you steal from them, I bet you do not. If you have been there for 10 years, I bet you have a great relationship, you have a whole range of good things—I am talking small business here. You know them; they become family. After a year, you think, ‘See you later. LOL! I still get long service leave. In your face, employer!’. I am just not sure that sends a really good message at all.

That is why it is not head in the sand. It is actually head right up in the sky, saying, ‘No. This is inefficient. This creates problems. It does not send the right message. Why are we talking about it?’

Mr NARDELLA — One of the things that you talked about is the skills level and keeping really good people in the industry. You talk about it being employer specific, business specific and developing skills and training for an employer. You do not see any benefit in people moving around and getting other skills and then eventually going to an employer, but building up your long service leave? You do not think that is worthwhile to an industry?

Mr STRONG — It is worthwhile to the employee and it is worthwhile to the construction industry. It has not been proven to me that it is worthwhile to an industry. I see where you are coming from. I was a bookseller. I was in the bookselling industry. Someone would come into my bookshop and I would say, ‘Great, if they can understand what the language is’. I do not know what that has to do with long service leave. They are going to do that anyway. They do that now. This will not change any of that. This will not make them say, ‘I’m going to stay in the industry’. I think the previous speaker was talking about what makes people change. If you are in Shepparton and you do not want to move, that is what drives you as an individual. Some will be driven to go to Tullamarine to drive that ambulance.

That is the way it is at the moment. This is something that is not necessary and will not change anything in a way that can be measured. This is already happening. I think we are making up arguments that are a bit like the public holiday for the grand final. I think the argument was that it was good for the economy.

Mr NARDELLA — Well, it was.

Mr STRONG — If you extend that through, we should have a public holiday every time there is a big event—the economy will boom. There will be jobs everywhere.

Mr NARDELLA — Not necessarily. You work that stuff through—and we did. A lot of the small businesses in country areas—like at Lorne, for example, you could not get into Erskine House. The bookshop in Lorne is a very good one, too; that is on the public record.

Mr STRONG — All independent bookshops.

Mr NARDELLA — All the independent ones, absolutely. Those businesses had a boom time, because people were out there spending their money. So there are pluses and minuses, apart from the 200 000 people who were in the middle of the city as well.

Mr STRONG — It is a different argument, Mr Nardella. I am sure I would enjoy having a cup of coffee with you over that one. I question it. I do not see the need and I do not see the benefit that will come to the economy from this. I do not see the benefit that will come to any particular industry. People are already moving around, and they are happy to move around. In the main in Australia we get good wages.

Mr NARDELLA — For the individual there is a benefit.

Mr STRONG — I will come back now to the employer. Does that individual get long service leave after 10 years? The answer is: no, of course not. Why am I working hard for whoever comes in ...

Mr NARDELLA — You are working for the company and that company has put away their money, as they should.

Mr STRONG — Again, are we talking companies or are we talking individuals?

Mr NARDELLA — A lot of small businesses are companies, are they not?

Mr STRONG — I am a corporation. I am talking about reality. You can talk the talk that comes out of solicitors and what have you, but if it is just me, I am a corporation for the sake of the advice I got from the accountant, but in actual fact I am an individual employing entity. It is very different, and we have to take that into account. Nobody does. The pressure upon me or upon those individuals, that bookshop owner, should be reasonable, and the expectation should be reasonable, that you would place upon any other individual. What we do is place extra pressure upon them that should not be placed upon them. As I say, superannuation should be PAYG. It absolutely should not be put upon me to manage the investments of somebody else, blah, blah, blah. Let us not go a step further by adding another complexity, which will be complex. It will be absolutely complex. There is no way of designing this that is not complex. Do not go there.

Mrs FYFFE — Coming from a small business background, I quite understand what you say about the red tape and paperwork. As a comment, I visited a new small business in my area last week. I walked in and said, ‘Gosh, you’re going well’. The place was buzzing. He said, ‘Yeah. Actually my accountant called me yesterday and said, “Congratulations. You haven’t lost as much as we thought you were going to lose”.’

Mr STRONG — Yes. Thank you.

Mrs FYFFE — So there are not millions of dollars being salted away by small business.

Mr STRONG — Sorry, Christine, if I could come in and just say on that point: I understand that the street was abuzz in Elsternwick—I love that street; Coles has got such a little shop there—but did the people of Elsternwick make money that day?

Mrs FYFFE — Exactly.

Mr STRONG — And who worked that day? I bet you it was them, and that is the problem. Nobody values the health of the small business person, because they do not count as human beings in so many areas. Sorry.

Mrs FYFFE — That is okay. I was just going to say a lot of people have put in a written submission, which has really helped us. You are relying on the larger organisations to provide the data, which of course they do, in a more clinical aspect than the way you are doing it. **It would help if you could substantiate some of your arguments with some data if that is possible.**

Mr STRONG — **I shall do my best.**

The CHAIR — Have your members voiced concerns about portable long service leave schemes that exist in Victoria or interstate, and if so, what are their concerns?

Mr STRONG — Nobody has expressed any issue about long service leave at all up until this. It has not been on the radar. We have been looking at a whole range of other issues. If I seriously go back over the last 10 or 20 years I have been running the Council, I suppose, and long service leave might come up every now and then as something that you mention as a cost that people often forget we have, it has not been something that has been an issue, and that is why they cannot believe we are even going down this track.

The CHAIR — If a portable long service leave scheme were established in Victoria, what support should government provide to small businesses?

Mr STRONG — They should give each small business person the clerical support needed to do it, so they should pay for an accountant to come and visit them and do the paperwork for them.

Mr NARDELLA — Good answer.

The CHAIR — How would small business in regional and rural Victoria be affected if portable long service leave were introduced, compared with small businesses in metropolitan areas?

Mr STRONG — I can imagine if I had a shop in the main street of Wodonga and I had a meeting with my fellow business operators, we would all be having a laugh that Joe Blow, who had worked with me for a year and was no good; then was working down the road, no good; then was working somewhere else, no good—but is going to pick up long service leave. We would all think that was very funny.

Mr NARDELLA — Why would he be working for you for a year if he was no good? The probation period is three months. Would you not work it out within that three-month period?

Mr STRONG — In country areas in particular, you are part of a community. Sometimes the person living next to you is the grandparent of the person you have just employed ...

Mrs FYFFE — You keep hoping.

Mr STRONG — Yes, you do—you keep hoping. Plus you put a bit of effort in, plus there is a whole range of things you do. Sometimes it does not work because your customers are not coming in anymore or whatever—like it might not have anything to do with your employee. It is a very common thing in country towns. It might just be it is not working—you are clashing, whatever it is—and they move on. It might be that I am a hopeless employer. Normally, if you are a hopeless employer, you do not last long, particularly in regional Australia.

Then someone will come from down the road and say, ‘Look, so-and-so has come in and they said, “Can you give this girl a try?”. What did you think?’. You would say, ‘This is where they were good, this is where they were bad. If you’re going to work with them, this is what I’d do’—and obviously you got rid of them. So they go, ‘Oh, I’ll have a go’. That is the way it works—people are people—whereas in big business, it is so different. Is Uncle Ben’s still in Wodonga? It is such a different approach. They sit there. They will put a training regime into action. They will get someone from employment services to put some money in—not that they do anymore. They will do a whole range of different things. Whereas I will have a go. I will sit there and I will get a bit of pressure from someone and I will say, ‘Okay, you work with them and tell them they’ve got to turn up to work on time, and I will work with them’. By the way, the reason you do that is that as they grow up, they actually work out—not always, but they will work out. That is the wonder of community, and we are part of the community as distinct from bigger employers.

The CHAIR — Mr Strong, on behalf of the Committee, I would like to thank you for giving evidence and for your contribution.

Witness withdrew.