

Selling WorkChoices: the campaign for industrial relations reform

In 2005 the Howard Government planned to institute major changes to Australia's industrial relations system. The contentious legislation, better known as WorkChoices, was anticipated by the Australian Council of Trade Unions (ACTU)¹ which launched a pre-emptive advertising campaign opposing it. This prompted the Government to bring its own advertisements forward amid claims that the \$55 million campaign was a misuse of public money to fund political propaganda. Problems with the law and an imminent election in 2007 led the government to launch another advertising campaign but it too was beset by controversy.

Howard's IR plan

After a successful election campaign, the Liberal-National Coalition assumed government in 1996 and Prime Minister John Howard made reorganising Australia's industrial relations (IR) system a key priority, although the Government had not secured control of Senate.² Less than a year later, the *Workplace Relations Act 1996* was passed into law, replacing the *Industrial Relations Act 1988*. The Act heralded a number of significant changes including the expansion of enterprise bargaining agreements which had been introduced by the previous government. This allowed a group of employees to negotiate pay and conditions directly with their employer instead of relying on unions or an industry-wide award. It also introduced Australian Workplace Agreements (AWAs) where individual workers could enter into an employment arrangement with their employers directly. At the same time, the *Workplace Relations Act 1996* restricted the scope of the Australian Industrial Relations Commission³ in arbitrating claims, and imposed limits on union activity.

This case was written by Marinella Padula, Australia and New Zealand School of Government for Peter Thompson as a basis for class discussion rather than to illustrate either effective or ineffective handling of a managerial situation.

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¹ The ACTU is Australia's national peak body of trade unions consisting of 46 affiliated unions, representing approximately 2 million workers.

² The balance of power was held by the Australian Democrats.

³ An independent, national tribunal dealing with employment related issues and disputes including: industrial dispute resolution; unfair and unlawful dismissal; awards and industrial action.

The new legislation faced a major test in 1998 during the Australian waterfront dispute. Dissatisfaction with productivity at the nation's ports and the domination of the Maritime Union of Australia led the Patrick Stevedoring Company to sack its entire unionised workforce overnight, liquidate its assets and immediately recommence operating as a new business with non-unionised employees who had been trained overseas in secret. Maritime Union workers were evicted from the docks by security guards and in response they set up picket lines in ports across Australia. Meanwhile, ACTU Assistant Secretary Greg Combet launched legal action on behalf of the Maritime Union whilst other unions also lent practical and political support.

The Howard Government endorsed Patrick's actions but denied any prior knowledge of (or involvement in) the company's plans – an assertion vigorously challenged by the unions. The bitter, high-profile protest lasted many weeks and was not resolved until June 1998 when the parties managed to negotiate a new agreement after the High Court found in the Maritime Union's favour. The waterfront dispute was later dramatised in an ABC mini-series entitled *Bastard Boys* and screened in May 2007 as a new industrial relations battle continued to unfold.

The ACTU mobilises

In October 2004, the Howard Government was returned for a fourth term and, contrary to expectations, also won the Senate. This meant that by mid-2005, the Liberal/National Coalition would control both houses of parliament. The win encouraged Howard to press ahead with further changes to the industrial relations system that he had long wanted to advance. In February 2005, during a speech to the Committee for Economic Development of Australia, Workplace Relations Minister Kevin Andrews outlined some of the Government's plans for industrial reform. According to Andrews, proposals under consideration involved major legislative changes that would bring 85-90 percent of Australian employees into a national workplace relations system and reduce the number of workers covered by state awards. He also indicated that there could be changes to the AIRC, including new mechanisms for setting the minimum wage, as well as a diminished capacity for unions to enter into negotiations.

Meanwhile, in the immediate aftermath of the 2004 election, the ACTU appeared to lack a coherent and concrete plan to deal with the new industrial landscape.⁴ But as the weeks passed, members of the union movement were becoming increasingly concerned about what would likely transpire in a few months. Times were already difficult; by 2005, union membership was at 23 percent compared to 50 percent of the workforce 20 years earlier.⁵ It was Australian Manufacturing Workers' Union secretary Doug Cameron who initially approached Melbourne consultancy Essential Media Communications in March 2005 to find out what, if anything, the unions should do.

Essential Media's research identified six main voter groups in the community. The first three were free-market conservatives (33%), socially liberal professionals (approx 15%) and welfare supporters (approximately 10%) who held stable ideological positions and voted accordingly. However, the latter three groups were of greatest interest. They were Liberal-

⁴ Bramble, T. 'Resisting Howard's industrial relations 'reforms': the ACTU strategy' *Journal of Political Economy*, No.56, p.258.

⁵ Leigh, A. 'The Decline of an Institution' *Australian Financial Review*, 7 March 2005.

leaning nationalistic “battlers” (10%), Labor-leaning nationalistic “battlers” (18%) and unaligned nationalistic “battlers” (9%).⁶

Exploring some of these “battlers” further, a picture of the “Footy Dad” began to emerge. “Footy Dad” was conceived as the Australian equivalent of Margaret Thatcher’s famous “Essex Man” [an archetypal lower middle-class Englishman from London’s outer suburbs who believed in patriotism and family values] and Bill Clinton’s “Soccer Moms”, [centrist suburban women who feared the radical anti-government rhetoric of the Republicans]. “Footy Dads” were also socially moderate voters who had supported Bob Hawke in the 1980s but swung to John Howard in the 1996, 2001 and 2004 elections.⁷ Said the Essential Media report:

“In coaching the local footy team, or running the organisation on the sidelines, they are committing to their kids and their neighbours’ kids...But life is getting harder. More and more, they feel themselves squeezed between being a good worker and a good parent. If the Prime Minister really plans to deny their rights at work, leaving them to fight or beg for penalty rates, weekend allowances, even four weeks annual leave, then things are about to get a whole lot harder...This section of society could emerge as a potent political bloc over the next few years: traditional Labor voters who, if only they had an alternative, would return to the fold.”⁸

EMC convened a series of focus groups in Melbourne, Adelaide, Brisbane and Sydney. The 65 participants were defined as “Howard Battlers” – they lived in suburban areas and were employed on less than \$60,000 per annum. Thirty percent were union members but 70 percent of the group had voted Liberal in the last election. However, few harboured particularly strong feelings about the Government. From the discussions it emerged that participants were most likely to describe themselves as “working families” or “working people” rather than use traditional class labels. But despite buoyant economic conditions, most felt that they “were just keeping their heads above water” rather than “managing” or “prospering”.⁹ During the sessions it also became clear that they had no concept of the Government’s proposals. That was set to change dramatically, as a newspaper report revealed:

“When aspects of the Kevin Andrews plan were read out to the groups, the reaction was immediate and strong. ‘We might as well be in Russia. It’s scary stuff this,’ said a woman in Melbourne. ‘So you’re literally screwed — they want to make it exactly like America!’ said a Sydney man. ‘Was any of this brought up at the election?’ asked a woman from Adelaide. Importantly, people had no trouble believing that Howard would introduce such laws. Earlier workplace reforms had already made many feel less secure, and Howard was well known to them as an industrial relations hawk. ‘The real question was, would Howard do this stuff?’ Essential Media Communications director Tony Douglas told *The Age*. ‘And everyone said, yes, he would.’”¹⁰

By contrast, the focus groups were not worried about the unions and expected them to launch an attack on the reforms. “Go as hard and as long as you like,” one participant was quoted as saying.¹¹ While concepts such as “fairness” were important, people were more interested in

⁶ West, A. ‘Footy Dad was the choice worker in campaign’ *The Australian*, 27 November 2007.

⁷ *ibid.*

⁸ *ibid.*

⁹ Bachelard, M. ‘Burned by IR, Howard’s battlers exact revenge’ *The Age*, 26 November 2007.

¹⁰ *ibid.*

¹¹ *ibid.*

discussing their “rights”. Essential Media then tested a rough draft of a prospective television ad which met with favourable responses. In April, Essential Media completed its report and presented it to the ACTU. It recommended that the unions act swiftly with a hard-hitting advertising campaign so they could frame the issue first. ACTU Secretary Greg Combet and President Sharan Burrow accepted the advice and approached the unions for contributions. They also assigned ACTU Director of Policy George Wright to work with Essential Media on creating the campaign.¹²

Your Rights at Work

In late May 2005, the Prime Minister publicly announced his intention to modify the *Workplace Relations Act 1996* in Parliament. Howard explained the need for reform in terms of safeguarding current living standards, increasing productivity and ensuring continued economic growth. Said Howard: “This Government trusts employers and employees to make the right decisions in the workplace.”¹³ He continued:

“The measures I am outlining today represent the next logical step towards a flexible, simple and fair system of workplace relations. Australia must take this step if we are to sustain our prosperity, remain competitive in the global economy and meet future challenges such as the ageing of our society. The essence of these reforms is to further promote and facilitate the making of agreements at the workplace level. Only through this will the full potential for productivity gains in the Australian economy be realised.”¹⁴

Howard confirmed that he intended to have the States refer their workplace relations powers to the Commonwealth. He also expanded on the changes that Andrews had signalled, announcing that the Government planned to:

- establish the Australian Fair Pay Commission to determine minimum wages, in place of the Australian Industrial Relations Commission (AIRC);
- exempt small businesses from making redundancy payments;
- encourage the proliferation of AWAs;
- increase the probation period for new employees from 3 to 6 months;
- reduce the number of employment terms and conditions covered by awards;
- exempt companies of fewer than 101 employees from unfair dismissal laws; and
- tighten restrictions on union activity including industrial action and pattern bargaining.

The Government also forecasted the end of the AIRC’s role in authorising collective and individual agreements. Workplace agreements would instead be automatically approved upon lodgement with the Office of the Employment Advocate . These changes would form part of the *Workplace Relations Amendment Act 2005*, expected to be tabled in Parliament later that year. The proposed legislation, soon to be better known as WorkChoices, represented a significant overhaul of the industrial relations system. And one that was not going to go unnoticed.

On June 15, fewer than three weeks after Howard’s address, the ACTU launched its *Your Rights at Work* campaign, which combined a national series of advertisements with grassroots

¹² *ibid*

¹³ ‘Statement on Workplace Relations’ Parliament of Australia, 26 May 2005.

¹⁴ *ibid*.

activities including a mass rally in late June attended by some 100,000 people in Melbourne alone. Essential Media and the ACTU also enlisted the services of US political pollster and Democratic strategist Vic Fingerhut to provide analysis and advice. One of the first commercials saw “Footy Dad” brought to life, whilst two others called “George” and “Tracy” were based on real examples. “George” depicted a long-term employee pressured by a management consultant into becoming a casual worker. The ad ended with a voiceover which stated: “If you think Australian workers and their families will be better off on individual contracts, think again.”

Meanwhile, “Tracy” showed a mother of two young children receiving an unexpected phone call from her boss calling her into work. When “Tracy” explains that she has no one to mind her children, her boss threatens her with dismissal. “Tracy” questions him but his answer makes it clear to her that he can sack her. Distressed, she then calls her mother to look after the kids. A voiceover warns that: “If you think you will be safe without unfair dismissal laws, think again.” The ads provoked an instant and widespread reaction: “Tracy” in particular, resonated strongly with the public and images from that advertisement were used in other promotional materials later in the campaign (*Exhibit A*). The ads were also disseminated via internet sites such as YouTube. As the campaign progressed, Howard’s approval rating slumped. Essential Media’s polls found that after the first round of ads, 64 percent of people thought the laws were bad, compared with 38 percent before they had started.¹⁵ Public polls produced similar results. The ACTU’s initial advertising spend was \$2 million, later rising to \$8 million.

WorkChoices: The first campaign

Spurred into action, the Government initially began responding to *Your Rights at Work* through speeches and media statements. But it rapidly became clear that this would be insufficient. On 22 June 2005, Workplace Relations Minister Kevin Andrews approved the key elements of a two-stage communications strategy. The first phase would involve broad communications about the Government’s proposed changes, including printed information kits and a dedicated website. The second phase was a multimedia campaign which would explain the new system in more detail and was slated to commence in February 2006 after the passage of the new legislation. The first phase of the campaign (and associated activities) was costed at \$20 million but was later revised upwards to \$40 million.

The proposed two-phase strategy was put to the Ministerial Committee on Government Communications¹⁶ on 5 July 2005. The Committee was involved in all major government campaigns and had an elaborate approval system (*Exhibit B*). But the swathe of negative publicity generated by the ACTU advertisements prompted substantial alterations. The engagement of consultants was hastened and an initial series of advertisements were created by the Government within days. Plans were also made for a mass media campaign to be run before the legislation was introduced to Parliament, as well as afterwards. Kevin Andrews then wrote to the Prime Minister on 8 July 2005 seeking funding of \$5 million for “a

¹⁵ Bachelard, M. ‘Burned by IR, Howard’s battlers exact revenge’ *The Age*, 26 November 2007

¹⁶ The Ministerial Committee on Government Communications was established by the Prime Minister in 1996 to oversee and sanction the delivery of all communication campaigns or market research activities costing in excess of \$100,000.

preparatory phase of the communications campaign.”¹⁷ The request was granted and on July 9, advertisements began to appear in the print media, followed by a series of radio advertisements on July 23 (*Exhibit C*). The legislation had yet to be fully drafted.

From mid-July to early August, three agencies were officially awarded government contracts to develop, monitor and manage the first main promotional push: Jackson Wells Morris (PR), Colmar Brunton (research); and Dewey & Horton (concept development). Another two firms were to handle media buying. A leaked briefing from the Department of Workplace Relations (DEWR) revealed what the Government was looking for:

“The key messages for the advertising will be: protection and safeguards of employee rights; more jobs and better jobs for employees; retention of the Australian way of life. The tone of the message should be factual, reassuring, neutral and non-threatening. Emotional appeals and aggressive rebuttals should be avoided...The message should also be delivered in simple and clear language, free of jargon and rhetoric... [Agencies] must respond to the immediate need for advertising to correct misinformation and misunderstanding in the Australian public arena.”¹⁸

However, the Government’s campaign hit a snag when the ACTU and the Australian Labor Party (ALP) mounted a High Court challenge questioning the lawfulness of using public funds to finance the campaign. In late September, the High Court found in the Government’s favour and the next stage began in earnest. The campaign budget, now estimated at \$55 million, was allocated as follows:

\$44.3 million – Total advertising budget

\$2.9 million – July advertising tranche (media buy)

\$36.8 million – October advertising tranche (media buy)

\$21.4 million – television advertising

\$8.7 million – newspaper advertising

\$3.7 million – radio advertising

\$2.5 million – other (including non-English language newspapers)

\$4.6 million – research, public relations and evaluation costs

\$2.6 million – printing and distribution costs for 16-page information booklet

\$8.1 million – call centre to answer public enquiries.¹⁹

From 9 – 30 October, a second series of television, radio and print advertisements were released, now featuring the word WorkChoices in place of the phrase “new Workplace Relations Plan” (*Exhibit D*). Promotional items such as mousepads were also produced (*Exhibit E*). Where the television commercials were concerned, the Government’s intention was that at least 95 percent of the viewing audience should see a television commercial at least once during the broadcast period and that 82 percent of people would see the advertisements three or more times. However, it was anticipated that the average viewer would see the ads close to 30 times.²⁰ Two of the ads featured images of employees in different workplaces accompanied by a voiceover explaining the rationale behind the proposed legislation. Another two shorter commercials highlighted rights or protections that would still exist under WorkChoices (*Exhibit F*).

¹⁷ ‘The Administration of Contracting Arrangements in relation to Government Advertising to November 2007’ Australian National Audit Office, Audit Report No.24, March 2009, p.174.

¹⁸ Bachelard, M. ‘IR ads to focus on lifestyle’ *The Australian*, 4 August 2005.

¹⁹ ‘Government advertising and accountability’ Senate Finance and Public Administration References Committee, Canberra, December 2005, p.47

²⁰ *ibid*, p.48.

But instead of placating a nervous public and casting the proposed changes in a positive light, the campaign seemed to be having little impact. An AC Nielsen poll conducted during the October campaign found that of the 84 percent of respondents who were aware of WorkChoices, only 23 percent supported it, whilst 57 percent opposed the changes.²¹ This was despite the fact that the majority of people surveyed did not believe that WorkChoices was likely to affect them personally. It also found that awareness of the Government's plans had remained fairly constant since July. In addition, agency focus groups revealed that the Government ads left viewers concerned and confused.

The ACTU anti-WorkChoices campaign continued unabated, launching its second round of advertising in September, 2005 at the AFL²² Grand Final just before the recommencement of the Government campaign. Additional ads featured a married couple discussing the husband's new Workplace Agreement, which would entail a loss of penalty rates and compulsory weekend shifts. The wife asks: "So you have to work weekends for no extra pay? It used to be you work hard, you get ahead." Another commercial depicted a variety of different workers as "sitting ducks" being knocked over in a carnival sideshow while a voiceover explained the implications of new IR laws. Yet another ad opened to a corporate boardroom where senior management types were discussing what the proposed legislation would allow them to do. It then closed with a conversation about executive pay rises.

However, the Government did receive some support. On 30 October, the Business Council of Australia²³ launched its own \$6 million television campaign in support of the reforms, just before the *Workplace Relations Amendment (WorkChoices) Bill 2005* was finally introduced into the House of Representatives by Minister Andrews. The Bill was 687 pages in length and accompanied by a 565-page Explanatory Memorandum. Despite an ACTU-organised, nationwide protest involving an estimated 500,000 people in mid-November, the Bill was passed by the Senate (after some amendments) in early December. The new laws were set to take effect in March 2006.

But passing the WorkChoices legislation did not quell the debate. Despite the High Court ruling, many commentators still questioned the validity of the campaign. Others also questioned the expense. In December, a Senate Committee Report on government advertising was highly critical of the WorkChoices campaign. The committee was chaired by Labor Party Senator Michael Forshaw²⁴ and the Government was in a minority of its membership. "Four features of the WorkChoices advertising campaign are of particular concern," the report stated. "They are: the contempt for Parliament; likely inaccuracies in advertisements; the wastefulness of the campaign expenditure; and lack of real information in the advertisements."²⁵ One example cited was the pulping of close to 460,000 copies of an information booklet so the word "fairer" could be inserted in the title (*Exhibit G*). Moreover,

²¹ Humphries, D. 'WorkChoices campaign a \$40m flop' *Sydney Morning Herald*, 26 October 2005.

²² Australian Football League

²³ The Business Council of Australia is a national peak body representing Australian employer groups.

²⁴ The Senate Committee also featured Senator John Watson (Deputy Chair) LP, Senator Carol Brown ALP, Senator Mitch Fifield LP, Senator Claire Moore ALP, Senator Andrew Murray Australian Democrats.

²⁵ Government advertising and accountability' Senate Finance and Public Administration References Committee, Canberra, December 2005, p.46.

fewer than 200,000 booklets in a total print-run exceeding six million had actually been distributed. In summation, the Committee concluded that:

“The advertisements state opinion as facts...[and] provide no evidence which supports their assertions and no information about when the legislation will be introduced or what effects it will have on individuals...The real purpose of the campaign seems to be to persuade the public, in advance of any scrutiny or debate on the substance of the reforms, that whatever the legislation contains it must be supported. Such a campaign is properly called propaganda. The wastefulness of the WorkChoices campaign is demonstrated not only by the total amount spent, but also by the saturation coverage at which the campaign aimed...

“Did the government seriously think that six million households would seek an information booklet about legislation yet to be introduced to the Parliament? Did the government seriously think that it was necessary to expose the average viewer to 29 television advertisements in order to convey the information that reforms were proposed? The extravagance of the advertising campaign, and the refusal to implement any of the reforms proposed in previous reports, demonstrates that the current government has developed a disregard for the principles of accountability and stewardship in its expenditure of taxpayer funds.”²⁶

The report also noted that during 1996-2004, the Howard Government had spent in excess of \$1 billion on advertising. Although advertising expenditure had been increasing under previous governments, the acceleration of spending was a worrying feature for the Committee. The Government was now one of the biggest advertisers in Australia, outspending corporations such as Coles-Myer, Holden and McDonalds.²⁷

WorkChoices: from theory to reality

By the end of 2005, Howard's satisfaction rating was 41 percent, down from 60 percent just a year earlier, and the Liberals' primary vote was also in decline.²⁸ On 27 March, 2006 WorkChoices came into effect and on the same day the Office of Workplace Services (formerly within DEWR) was granted executive agency status. Less than a week later, reports surfaced that an abattoir in Cowra, NSW had sacked 29 workers under the new laws, then invited the workers to reapply for 20 jobs on lower pay rates. In May, discount haberdashery chain Spotlight came under fire for offering workers a 2 cent per hour pay rise in place of overtime and penalty rates. Unfortunately for the Government, they were not isolated incidents. A sample survey of 250 of the 6000+ AWAs lodged with the Government during April found that each one of them had dropped at least one formerly protected award condition. Sixteen percent had removed all award conditions.²⁹

Meanwhile, the States and unions were mounting legal challenges to the new legislation in the High Court. The ACTU also kept up the pressure via a new batch of advertisements aired in June 2006. The most notable feature of the latest campaign was a series of eight commercials entitled: *Real People, Real Stories*. Instead of using actors, these ads featured actual workers describing their experiences under WorkChoices. While the Government challenged the

²⁶ *ibid*, p.xvi

²⁷ *ibid*, p.55.

²⁸ Bachelard, M. 'Burned by IR, Howard's battlers exact revenge' *The Age*, 26 November 2007.

²⁹ O'Neill, S. et al 'Workplace relations reforms: a chronology of business, community and Government responses' Parliamentary Library of Australia, www.aph.gov.au/library Accessed March 2009.

veracity of their claims, a month later Howard conceded that the new IR laws might require further refinement.

At the same time, not all businesses were embracing the new provisions as enthusiastically as originally envisaged. An *Age* newspaper survey of major corporations found that 12 large firms, including NAB, Telstra, Foster's, and Woolworths, did not intend to de-unionise or make extensive use of individual contracts. Most indicated that they were satisfied with current arrangements or wanted to avoid the inconvenience of drafting thousands of individual AWAs.³⁰ Other surveys revealed that only 13 percent of employers claimed to understand the new IR laws and that only 9 percent of small businesses planned to use WorkChoices to make changes. In addition, two out of five small businesses considered that the law was unfair to many employees.³¹

As 2006 went on, the media continued to focus on employees adversely affected by WorkChoices, while church leaders came out strongly against the IR changes. Emerging research from a variety of sources indicated that many workers, particularly young, female and low-income employees, were at increased disadvantage under the new system – despite the campaign's assurances. With an election looming in 2007, the Government knew it had to act decisively to win back public confidence and support.

The *Know where you stand* campaign

In January 2007, Workplace Relations Minister Kevin Andrews was replaced by Joe Hockey – a move that was in part attributed to the profile and popularity of Greg Combet who had become the ACTU figure most closely associated with the anti-WorkChoices campaign. Just after the first anniversary of the new laws, in March 2007, Family First Senator Steve Fielding introduced a Private Member's Bill seeking to restore some lost protections. Kevin Rudd, who had assumed leadership of the Australian Labor Party in late 2006, reiterated the ALP's opposition to WorkChoices.

In May 2007, the Prime Minister announced the Fairness Test which would apply to all AWAs and collective bargaining agreements submitted after 7 May 2007 for employees earning less than \$75,000 per annum. The purpose of the test was to ensure that workers were adequately compensated for any loss of entitlements or conditions. The Office of Workplace Services (OWS)³² would also become the Workplace Ombudsman, whilst the Office of the Employment Advocate (OEA) would become the Workplace Authority. All AWAs would now be lodged with the Workplace Authority and assessed according to the test. AWAs which failed the test would be sent back to the employer for revision.

Government research revealed that its IR policy had caused “panic, fear and feelings of disempowerment among voters,” prompting the Government to launch a new campaign.³³ Estimated to cost a further \$70 million, its task was to promote the Workplace Authority and Fairness Test. Entitled *Know where you stand*, one advertisement depicted a father and son at the football relating a “myth” about the IR laws and directing viewers to further information

³⁰ Bachelard, M. 'Big firms shun IR revolution' *The Age*, 28 June 2006.

³¹ *opcit.*

³² The OWS was an independent government agency tasked with monitoring workplaces and advising employers and employees on IR matters.

³³ Bachelard, M. 'Workplace ad pulled over bad boss claim' *The Age*, 7 August 2007.

(*Exhibit H*). Print advertisements, meanwhile, announced “A stronger safety net for working Australians” and explained the Fairness provisions in detail. Another series of television commercials focused on the role of the Workplace Authority responding to workers’ IR concerns. A notable element was the absence of the word “WorkChoices”, Hockey later admitting that WorkChoices was now a “damaged brand”. Said Hockey:

“I wasn’t the Minister for Workplace Relations in the past, but if you’re saying to me that we got it wrong in the past, well we did... We underestimated what would have happened if we put in place a system that may lead to people trading away penalty rates without fair compensation. We are now putting in place a stronger safety net. We are ensuring that people get more, not less, insofar as the law can. And what we are doing is making sure of their rights at work...If you look at the ads, we have a responsibility to tell the Australian people what the law is and how it applies to them. Australians have a right to know what their rights are at work. The unions and the Labor Party are crowing about this because they have spent tens of millions of dollars of union membership funds on a campaign about your rights at work.”³⁴

Lecturer and market researcher Dr Stephen Downes reflected on the label’s demise: “Why has WorkChoices failed as a brand name, in spite of the millions spent devising it..., protecting it...[and advertising it]? Is it simply that the name WorkChoices is so uninspired and pedestrian, or to be even more blunt, ‘lame’? ‘Choices’ is one of those words, along with ‘options’ and ‘solutions’, that are appallingly overused in brand and product naming at the moment, especially at the lower end of the market – even the local taxi truck owner-driver now describes his business as ‘logistics solutions’...Or is it because WorkChoices so clearly fails the ‘Newspeak’ test for sincerity in political language?...So when politicians (or marketers) use a word like ‘choices’, even the least cynical amongst us is immediately prompted to wonder what choices or rights have actually been taken away.”³⁵ He continued:

“Perhaps the word ‘choices’ itself has become too closely associated with propaganda. Even McDonald’s has made extensive use of it recently: ‘Deli Choices’ is really about the Golden Arches fighting back against competition from Subway, while ‘Lighter Choices’ is about breaking the strong mental association between the McDonald’s brand and fatty, unhealthy food....Was there ever any hope of success for ‘WorkChoices’ in the first place? Remember ‘Incentivation’, ‘Fightback’, ‘The Things That Matter’ and ‘Knowledge Nation’? You don’t? Well, that’s the point. With an increasingly brand- and advertising literate electorate, attempts to brand political policies seem doomed to fail ever more spectacularly.”³⁶

The new advertisements were primarily targeted at women and younger people and scheduled to appear during programs such as *Big Brother*. Although the ads garnered significant attention, not all of it was welcomed by the Government. One of the actors in the *Know where you stand* advertisements was found to have underpaid workers in his painting business, including his son.

The IR election?

As the 2007 federal election approached, the ACTU and unions kept the pressure up through their ongoing advertising campaigns (*Exhibit I*). ALP advertisements also referred to WorkChoices and asked the public to consider how much further the Coalition would take IR

³⁴ AAP ‘We got it wrong on WorkChoices – Hockey’ *Sydney Morning Herald*, 22 May 2007.

³⁵ Downes, S. ‘Why the WorkChoices brand didn’t work’ Crikey, 21 May 2007, www.crikey.com.au, Accessed, March 2009.

³⁶ *ibid.*

reform. Earlier in the year, John Howard exhorted business groups to fund further advertising campaigns in support of the Government's changes but the call went largely unheeded, with the Australian Industry Group, the National Retailers Association and the Business Council of Australia declining to finance ads.

But in September, the Business Coalition for Workplace Reform (a consortium of 19 business groups) finally heeded the call, producing two television commercials warning against undoing workplace legislation. One controversially featured "union thugs" storming a dressmaking business and acting menacingly. A voiceover warned of the potential consequences to dropping workplace reform. Media reports soon after it screened revealed that some of the actors playing unionists were actually convicted criminals.³⁷ Proponents of the IR reforms received worse news in November when it was revealed that although almost 25,000 AWAs had been passed, there were another 150,000 AWAs that had failed or were still in the system awaiting processing by the Workplace Authority.³⁸ The number of AWAs being submitted was falling and some business owners reported waiting months for AWAs to clear. They were also worried about large retrospective payouts in case they were found in error.

At the end of November 2007, the ALP led by Kevin Rudd enjoyed a convincing election win and vowed to repeal the WorkChoices legislation. Polling revealed that IR reform had been a significant election issue, swaying a crucial number of former Liberal voters. Reflecting on the WorkChoices campaign, advertising executive Wayne Wood declared that the first campaign had failed because it had been too "soft". Said Wood: "The ACTU [was] being very aggressive and literally calling the Government liars. What the Government should have done is taken a more front-footed approach instead of this limp-wristed approach."³⁹

In examining the campaign, Perth academic Peter Van Onselen noted that the community generally accepted the need for government advertising, for example, public health campaigns. However, the tendency of federal and state governments to be in permanent campaign mode, constantly promoting their activities, meant that the public had considerably less tolerance for advertisements that seemed to advance an agenda.⁴⁰ By the time it was over, the Government had spent in excess of \$120 million on both workplace campaigns, whilst the ACTU had spent roughly one quarter of that amount.

According to the ACTU's George Wright, the Government had "underestimated two things: the capacity of the unions to campaign, and the belief the Australian people have in fair institutional structures."⁴¹ "Battler" constituents saw the reforms as a betrayal of their "work hard and get ahead" ethic. "These were people who had a values connection with Howard," said Wright "They thought he was standing up for Australia - they were quite nationalistic - but they couldn't work out why he was doing this to them."⁴² Commercials like the "Tracy" ad spoke to the Footy Dad's conflicted feelings about being a responsible worker and a good

³⁷ AAP "Convicted crims' in pro WorkChoices ad' *The West Australian*, 23 September, 2007.

³⁸ 'More companies face back-pay bogey' Smart Company, 12 November 2007 www.smartcompany.com.au Accessed March 2009.

³⁹ Lawson, A. 'Limp-wristed' IR campaign awash in funds' *The Age*, 17 October, 2005

⁴⁰ Van Onselen, P. & Errington, W. 'The Howard Government's Industrial Relations Information Campaign and the Limits to Incumbency Advantage' Conference Paper, Australian and New Zealand Communication Association, Adelaide 2006.

⁴¹ Bachelard, M. 'Burned by IR, Howard's battlers exact revenge' *The Age*, 26 November 2007.

⁴² West, A. 'Footy Dad was the choice worker in campaign' *The Australian*, 27 November 2007.

parent; in Wright's view, "Tracy" was a blow the Government didn't fully recover from. After that, seeing the "Boys in the boardroom" ad featuring greedy executives reinforced their misgivings. "That ad closed the loop for Australians," said Wright, "because it explained why Howard was doing what he did with WorkChoices. Our research showed the Liberal Party brand name was weakest when it associated them with big business."⁴³

The unions, added Essential Media Communications Director Tony Douglas, also successfully capitalised on latent distrust of Howard – a distrust which had been simmering since events like the Tampa crisis where, in one instance, refugees on a ship off the coast of Western Australia had been wrongly accused of throwing their children into the sea when intercepted by the Australian Navy. "Except this time", Douglas remarked, "it wasn't them being accused of throwing their kids overboard. But it [was] their kids who worked at McDonald's."⁴⁴

⁴³ *ibid.*

⁴⁴ *opcit.*

Exhibit A: ACTU information pamphlet

Benefits for big corporations but harder for ordinary working families

The Government claims its new industrial relations laws will benefit the Australian economy. But it has produced no credible evidence to support this claim.

It is true that the new industrial relations laws will have big benefits for large corporations. That is why the laws are being supported by business groups like the Business Council of Australia (BCA) which represents Australia's top 100 chief executives.

But the large corporations and their executives have already benefited a lot with CEO salaries rising by 396% since 1992.*

Working families worse off



Many working families, on the other hand, have been struggling just to keep their heads above water. The Government's industrial relations laws will only make things harder.

* ACTU and Oxford University research 2006

Unions protect their members at work

With these laws in place it is more important than ever that people belong to a union.

Union workplaces deliver better pay and stronger conditions for workers.

Collective bargaining has set the standard for workers across the economy for over 100 years.

If attempts are made to change your pay and conditions you need someone who can support you.

What you can do...

INFORM your work colleagues, family and friends about the Government's industrial relations laws by giving them a copy of this flyer.

SIGN ON to the ACTU campaign website and receive regular campaign updates at www.rightsatwork.com.au

BE ACTIVE through your union – strong unions are the best way to protect your rights at work.

JOIN a union if you are not already a member – call the ACTU Hotline to find out how.

DONATE to the ACTU campaign at www.rightsatwork.com.au so that unions can continue to take our message to the public through our TV advertisements.

FIND OUT MORE about your rights and our campaign by calling the ACTU.

ACTU HOTLINE 1300 362 223

What I say

'The best thing you can do to protect you and your family from the impact of these laws is to become a union member.'

GREG COMBET ACTU SECRETARY



New Industrial Relations Laws



New work laws and you

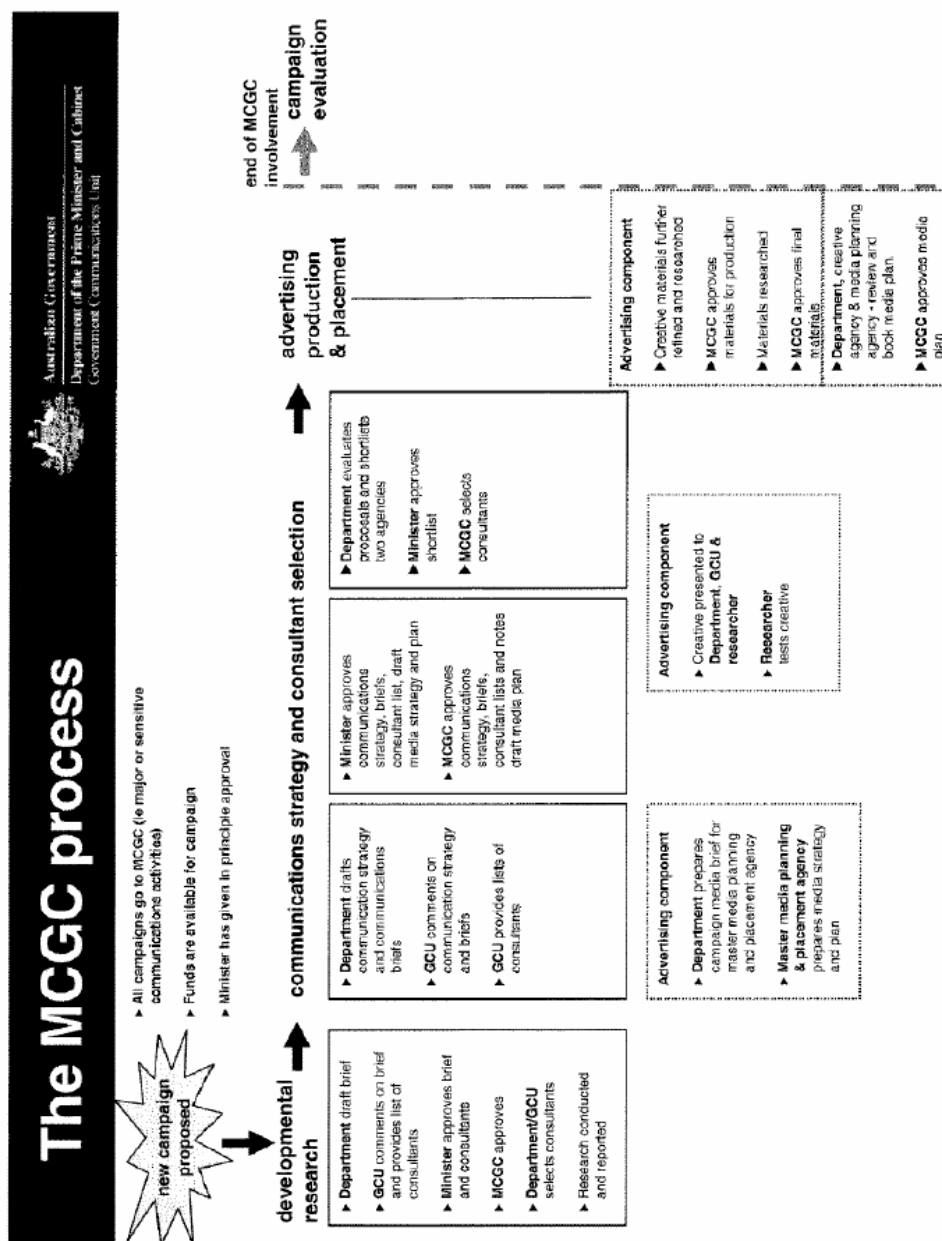
The changes to industrial relations laws all Australians must know about.

ACTU

yourrightsatwork
worth fighting for

Authorised by G Combet ACTU 303 Swanston Street Melbourne 3000

Exhibit B: The Ministerial Committee on Government Communications approval process



Source: 'Government advertising and accountability' Senate Finance and Public Administration References Committee, Canberra, December 2005

Exhibit C: Government Radio Ads – July 2005

Radio Advertisement One, Broadcast July 22 2005

Man:

You know what scares me? With workplace agreements that we won't be protected anymore.

Woman:

That's not what it says here in the paper (sound of newspaper opening). Look, protected conditions include four weeks annual leave, personal and carer's leave, parental leave and a maximum number of thirty-eight ordinary working hours per week.

Male voice over:

The Australian government is committed to a plan to create more jobs, higher wages and a stronger economy. For more information on the new workplace relations plan, see this weekend's newspapers. Take the time to read it and find out the facts for yourself.

Authorised by the Australian Government, Canberra.

Source: Transcribed from advertisement on Mix Fm, Sydney, July 22 2005.

Radio Advertisement Two, Broadcast July 21 2005

Woman:

Hi honey. Why are you home early?

Man:

We're on strike. The government's going to cut my holidays in half.

Woman:

No, that's not right. I read about it in the paper. Look, it says here they won't cut four weeks annual leave, won't cut award wages or abolish awards.

Male voice over:

The Australian government is committed to a plan to create more jobs, higher wages and a stronger economy. For more information on the new workplace relations plan, see this weekend's newspapers. Take the time to read it and find out the facts for yourself.

Authorised by the Australian Government, Canberra.

Source: Transcribed from radio advertisement, broadcast on Nova FM, Sydney, July 21 2005

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October 23, 2005 THE SUN-HERALD

ADVERTISEMENT

**Australia
can't
afford
to stand
still.**

Authorised by the Australian Government, Capital Hill, Canberra, ACT.

WHA/05/01

ADVERTISEMENT



Australian Government

If we're serious about an even stronger economy, more jobs and higher wages we need a new workplace relations system.

To protect the future prosperity of all Australians we need to build an even stronger economy that delivers more jobs and higher wages.

To do this we need to start removing the restrictions of our current workplace relations system which are standing in the way.

The current system is too complex, inflexible and outdated. It's costing Australians precious new employment opportunities.

And it's seriously hindering investment and economic growth.

THE OLD SYSTEM NEEDS REFORMING.

It's absurd that Australia currently has six different workplace relations systems, over 130 different pieces of employment related legislation, over 4,000 different awards and over 30,000 different classification wage levels.

We are labouring under a workplace system that was largely designed over a century ago to deal with the problems of a different time and a different world.

WE CANNOT AFFORD TO GO BACKWARDS.

Countries have the choice of either going forwards or backwards. Marking time is not an option.

Nations which have reformed their workplace systems have benefited from stronger economies, higher job growth and lower unemployment.

Those that have been reluctant to reform their labour market systems continue to suffer from sluggish economic growth and high unemployment.

The lesson for us all is simple. No matter how well Australia is doing now, we cannot

afford to stand still and do nothing.

If we are serious about securing Australia's future we must reform our workplace relations system now.

INTRODUCING WORKCHOICES.

The creation of WorkChoices will move us towards one simpler, national workplace relations system.

It will improve productivity, encourage more investment, provide a real boost to the economy and lead to more jobs and higher wages.

We should never forget that Australia needs to create around 170,000 new jobs every year, including tens of thousands of jobs for school leavers.

We also need to find more ways to reward effort and more ways to increase wages as well as create more flexibility to provide a better balance between work and family life.

At the same time we must ensure that employees' minimum standard conditions are protected by law.

However, there is no greater protection we can give Australian workers and their families than a new workplace relations system that helps build the stronger economy needed to deliver more jobs and higher wages.

That's how we will all continue to grow and prosper.

John Howard
Prime Minister of Australia

WorkChoices

To find out the facts call the WorkChoices hotline 1800 025 239
or visit the WorkChoices website www.workchoices.gov.au

Authorised by the Australian Government, Capital Hill, Canberra, ACT.

Exhibit E: WorkChoices Promotional Mousepad



Exhibit F: Two Government Television Ads – WorkChoices 2005

Television Advertisement 1, Broadcast October 9 2005

Male voice over:

In recent years, something important has been happening in Australian workplaces. Australian workers and Australian businesses have started to change the way they work.

Every day, more employees and employers are getting together to talk and work out their own working arrangements.

Together, they're helping Australia build one of the strongest economies in the Western world. We're exporting more, we've created over 920,000 new permanent full-time jobs. Unemployment is around a 30-year low and interest rates are at historically low levels.

Australia has come a long way but we can't stand still. More needs to be done to make it simpler for employees and employers to work out their own workplace arrangements together.

We need to more ways to reward effort. More ways to increase wages and better balance work and family life. And we need to do more to remove the complex and costly rules and regulations in some parts of the current system which continue to hold Australia back. It's why we're introducing Workchoices.

We're moving towards one simpler, fairer national workplace system to replace the six different systems that exist now because by continuing to make sensible, practical and fair workplace changes we can create the opportunities we all need to grow and prosper. That's what Workchoices is all about.

There'll be more information coming in this Wednesday's newspapers. Or you can call 1800 025 239 for your free copy of the Workchoices booklet or visit the Workchoices website.

Female voice over:

Authorised by the Australian Government, Canberra.

Source: Transcribed from television advertisement, broadcast Channel Nine, October 9 2005.

Television Advertisement Four, Broadcast October 9 2005

Male voice over:

With Workchoices, it will be against the law for an employer to sack an employee for refusing to negotiate a workplace agreement.

To find out the facts, call the hotline for the Workchoices booklet.

Female voice over:

Authorised by the Australian Government, Canberra.

Source: Transcribed from television advertisement, broadcast Channel Nine, October 9 2005.

WorkChoices
**A simpler, fairer,
national
Workplace Relations
System for Australia**



Australian Government

Why the need for change?



Moving towards one simpler, national system.

Australia continues to change.

Over the last ten years, something important has been happening in Australian workplaces. Australian workers and Australian businesses have started to change the way they work.

As a group and individually, more employees and employers have been sitting down together, talking and working out their own workplace arrangements.

As a result, both employees and employers have benefited. There have also been more job opportunities created for women and school leavers.

A stronger economy.

This co-operative approach has been helping Australia build one of the strongest economies in the western world. We are exporting more. We've created over 920,000 new, permanent, full time jobs. Australia's unemployment rate has been markedly reduced, reaching a 30 year low and interest rates are at historically low levels.

Securing the future.

Australia has come a long way, but we can't stand still. More needs to be done.

If we are to grow and prosper, we need to continue working together to implement fair, practical and sensible changes to our workplaces.

These changes need to provide more choice and flexibility for both employees and employers in their workplaces, so we can find better ways to reward effort, increase wages, and balance work and family life.

A fairer system.

We also need to make our workplace relations system fairer and provide a better balance in the workplace for employees and employers.

These changes must ensure that award wages and specified existing conditions, along with the right to be represented by a union, are protected by law.

These changes should also provide extra help for employees to know their rights.

And these changes must provide additional support for employees in cases of unlawful termination.

A simpler system.

We also need to make our workplace relations system simpler. Australia has over 130 different pieces of industrial relations legislation, over 4,000 different awards and six different workplace systems operating across the country.

There are too many rules and regulations making it hard for many employees and employers to get together and reach agreement in their workplaces.

We also have too much red tape, too much complexity and too much confusion in some parts of the current system. It's bad for business, it costs jobs and it's holding Australia back.

For all these reasons, the Australian Government is moving towards one, simpler national workplace relations system.

It's called **WorkChoices**.

Importantly, it will make it much simpler for employees and employers to get together, talk and work out the workplace arrangements that best suit them.

Improving our living standards.

By encouraging people to work together and by continuing the improvement in our workplaces, **WorkChoices** will also help continue the improvement in our living standards and quality of life. And that's something worth working for.

This booklet outlines how **WorkChoices** will affect you. Take some time to read through it, and if you have any other questions, just call the **WorkChoices** hotline on 1800 025 239 or visit the **WorkChoices** website at www.workchoices.gov.au



What's changing.

With the introduction of **WorkChoices**, the Australian Government will initiate a range of changes that will make the workplace relations system simpler, fairer and more flexible.

THE NEW WORKPLACE RELATIONS SYSTEM

WILL move towards one, simpler national system.

WILL simplify the workplace agreement-making process.

WILL establish the Australian Fair Pay Commission to protect minimum and award classification wages.

WILL introduce the Australian Fair Pay and Conditions Standard to protect workers' wages and conditions in the agreement-making process.

WILL enshrine a set of minimum conditions in Federal legislation for the first time.

WILL provide modern award protection for those not covered by agreements.

WILL ensure an ongoing role for the Australian Industrial Relations Commission (AIRC).

WILL protect against unlawful termination.

WILL better balance the unfair dismissal laws.



And what isn't.

Though some things will change with the introduction of **WorkChoices**, Australian workers can rest assured that fundamental protections will remain.

THE NEW WORKPLACE RELATIONS SYSTEM

WON'T cut minimum and award classification wages.

WON'T remove protection against unlawful termination.

WON'T abolish awards.

WON'T remove the right to join a union.

WON'T take away the right to lawful industrial action when negotiating an agreement.

WON'T outlaw union agreements.

WON'T abolish the Australian Industrial Relations Commission.

Exhibit H: *Know Where You Stand* Campaign Still and Booklet – 2007

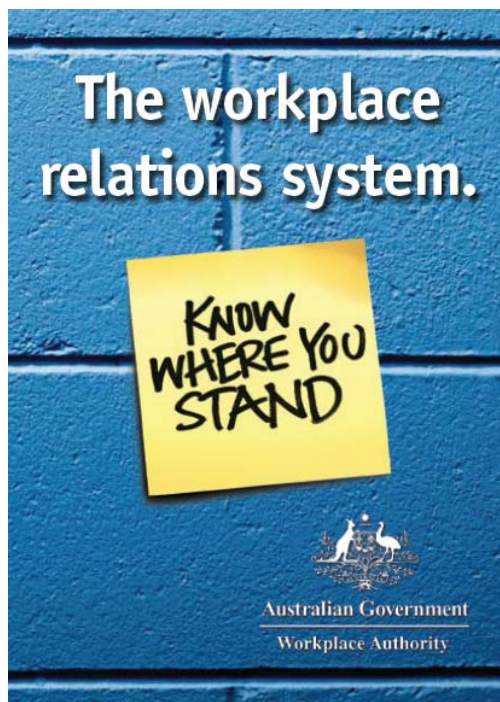


Exhibit I: ACTU flyer

