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Ms Julie Dennett  
Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Ms Dennett

The Australian Industry Group (Ai Group) welcomes the opportunity to comment to the **Inquiry into the Migration Amendment (Visa Capping) Bill 2010**.

We have made a number of submissions on the immigration program including to this same Committee inquiring into the Migration Legislation Amendment (Worker Protection) Bill 2008 and an earlier version of this Bill in July 2007.

Since that time there have been numerous changes to the program which have tightened the program significantly both in terms of size and access.

Skills shortages are predicted to worsen in the years ahead both in Australia and in many other developed countries whose societies are ageing. By 2015 Skills Australia forecasts that we will be 240,000 skilled workers short of requirements each year. Immigration will remain a critical part of the skilled labour solution for the foreseeable future and we need to attract the best and most highly skilled migrants in an increasingly competitive global, immigration marketplace.

Given all the changes to the program, and incidents which have damaged our reputation as a safe destination for skilled migrants, there is a potential for the Bill's cap and cease powers to add to the risks associated with migrating to Australia. Prospective migrants may unnecessarily fear that their applications may be cancelled and time and money invested in that process lost.

While we appreciate that in a very narrow range of circumstances there may be benefits for Government from the improved ability to cap and cease visa applications in the General Skilled Migration (GSM) program, we have a number of concerns:

- 1) According to the explanatory memorandum, the Bill itself will apply to the GSM and "*all visa classes, subclasses, or streams within a subclass*". While the intention may be to focus on GSM visa classes, we would be concerned that in a different environment and unforeseen circumstances the Bill could be used in other areas such as, for example, capping occupations under the Employer Nomination Scheme or any other scheme. A particular group could also conceivably lobby Ministers in the future to cap certain occupations to suit their own interests. This may seem unlikely but circumstances change.

*Recommendation:*

- *Consideration should be given to narrowing the application of the powers.*

- 2) While visa applicants who have their occupation category "capped" will have their application fees refunded, this would not compensate them for other costs such as migration agent fees and it would increase the risk associated with migrating to Australia.

*Recommendation:*

- *There should be the ability to seek reasonable compensation for costs incurred.*
- *The Department to investigate an appropriate mechanism to consult with stakeholders prior to capping.*

- 3) Around half of 457 Visa holders apply for permanent migration to Australia under the GSM program. Many of those visa holders are supported with their applications by their employers including through financial support such as engaging professional advice from migration agents.

*Recommendation:*

- *There should be consultation with affected industries prior to action being taken to assist employers in making informed decisions.*
- *Consideration should be given to establishing an appeals mechanism and the ability for reasonable third party compensation to be sought for costs incurred.*

In considering changes to the immigration program we need to be mindful that if we put up too many hurdles and make it too difficult to migrate to Australia, prospective migrants will look elsewhere.

This would further undermine our ability to deal with existing and future skills shortages.

Yours sincerely

Heather Ridout  
Chief Executive